HC-KAR

NC: 2026:KHC:37599
WP No. 21156 of 2026

CNR: KAHC010467932026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE B M SHYAM PRASAD

WRIT PETITION NO. 21156 OF 2026 (T-RES)

BETWEEN:

M/S DURATECH CONCRETE
AND PRODUCTS
A PARTNERSHIP FIRM
REGISTERED UNDER THE
INDIAN PARTNERSHIP ACT, 1972
HAVING OFFICE AT:
NO. 81/2, JINKEBACHAHALLY
DODDABALLAPUR, BENGALURU
RURAL BENGALURU-562103.

REPRESENTED BY ITS
AUTHORISED REPRESENTATIVE
SHRI TONY MATHEW
S/O. SHRI MATHEW M A
AGED ABOUT 43 YEARS
HAVING RESIDENCE AT:
NO. 12L, SKYLINE GARNET
KT GOPALAN ROAD KOTTOLI PO
KUTHIRAVATTOM, KOZHIKODE
KERALA-673016

...PETITIONER

(BY SMT. LAKSHMI MENON., ADVOCATE)

AND:

1. THE DEPUTY COMMISSIONER
   OF CENTRAL TAX
   DIVISION-09, BENGALURU-NORTH

COMMISSIONERATE HMT BHAVAN,
GANGA NAGAR,
BELLARY ROAD BENGALURU - 560032.

2. JOINT COMMISSIONER OF
CENTRAL TAX (APPEALS - II)
TRAFFIC TRANSIT MANAGEMENT CENTER
BMTC BUILDING, 4TH FLOOR
ABOVE BMTC BUS STAND
DOMLUR, OLD AIRPORT ROAD
BENGALURU - 560071.

...RESPONDENTS

(BY SRI. ARAVIND V. CHAVAN, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION, QUASHING AND SETTING ASIDE THE IMPUGNED ADJUDICATION ORDER DATED 28.02.2022 BEARING DIN 20220257Y0000420389 AND OIO NO. 81/2021-22 (GST) PASSED BY RESPONDENT NO.1 UNDER SECTION 74 OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 (ANNEXURE-A. II. QUASHING AND SETTING ASIDE THE IMPUGNED ORDER-IN-APPEAL DATED 25.03.2026 BEARING GST A NO. 48/2024-25 AND OIA NO. 407/2025-26 PASSED BY RESPONDENT NO.2 UNDER SECTION 107(11) OF THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 (ANNEXURE-D) III. IN THE

ALTERNATIVE, ISSUE A WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION DIRECTING THE RESPONDENTS TO FURNISH TO THE PETITIONER COPIES OF THE SHOW CAUSE NOTICE, DRC-01A, HEARING NOTICES AND ALL OTHER NOTICES, COMMUNICATIONS AND PROCEEDINGS PRECEDING THE IMPUGNED ADJUDICATION ORDER DATED 28.02.2022 BEARING DIN 20220257Y0000420389 AND OIO NO. 81/2021-22 (GST) ANNEXURE-A. IV. CONSEQUENT THERETO, ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION SETTING ASIDE THE IMPUGNED ADJUDICATION ORDER DATED 28.02.2022 BEARING DIN20220257Y0000420389 AND OIO NO. 81/2021- 22 (GST) AND REMANDING THE MATTER TO RESPONDENT NO.1 TO THE STAGE OF REPLY TO THE SHOW CAUSE NOTICE, WITH LIBERTY TO THE PETITIONER TO FILE ITS OBJECTIONS, PLACE DOCUMENTS ON RECORD AND SEEK PERSONAL HEARING IN ACCORDANCE WITH LAW (ANNEXURE-A).

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE B M SHYAM PRASAD

ORAL ORDER

The petitioner has suffered an Adjudication Order dated 28.02.2022 [*Annexure-A*] under Section 74 of the Central Goods and Services Tax Act, 2017 [for short, '*the Act*'] and the petitioner is unsuccessful in the appeal against such Adjudication Order with the dismissal of the appeal *vide* order dated 25.03.2026. The Order-in-Appeal dated 25.03.2026 is produced as Annexure-D. The petitioner has also sought for directions to the respondents to furnish copies of the Intimation in Form GST DRC - 01A, Show Cause Notice in Form GST DRC-1 and all other notices preceding the Adjudication Order.

2. Mrs. Lakshmi Menon, the learned counsel for the petitioner, submits the following in support of the petitioner's request for interference with the impugned Adjudication Order and the Order-in-Appeal.

[a] The petitioner is not served with either Intimation or Show Cause Notice and that the copies of these are not available on portal even as of date.

[b] The petitioner therefore did not have notice of the proceedings under Section 74 of the Act or the culmination thereof with the Adjudication Order dated 28.02.2022 until an Officer from the Department reached out to the petitioner for compliance with the demand under the Adjudication Order.

[c] The petitioner has thereafter secured information as per Annexure-B1 which indicates that though the petitioner's address is correctly available in the register and mentioned in the proceedings, the copy of the

Adjudication Order is sent to some address in Kolar.

[d] The petitioner, upon securing copies of the order from the first respondent's office has preferred an appeal under Section 107 of the Act, but the second respondent has rejected this appeal based on a perpetrated response from the dispatch section without verifying the records to ascertain whether the Adjudication Order was indeed sent to the petitioner's address in terms of Section 107 (1) of the Act.

[e] The initial limitation of three [3] months must be reckoned from the date on which a decision or an order is communicated to the concerned and in the present case the petitioner's appeal, because it is filed within thirty [30] days from the date of communication in the circumstances stated above, is within time.

3. On merits, Mrs. Lakshmi Menon submits that the proceedings are because of mismatch between the details in Form GSTR-2A and GSTR-3B, but the petitioner can even now furnish copies of invoices, bank statements to establish genuineness of the transactions and if the petitioner can establish the genuineness of the transactions, no liability can be fastened. Mr. Arvind V. Chavan, a learned standing counsel for the respondents, is heard to decide on whether this Court must intervene both with the impugned Adjudication Order and the Order- in-Appeal in the circumstances relied upon by the petitioner.

4. It remains salient that the limitation of three [3] months as contemplated under Section 107 of the

Act must be reckoned from the date of communication of the order, and in the circumstances, the petitioner is able to demonstrate to this Court's satisfaction that the Adjudication Order is addressed to someone at Kolar when the petitioner's address is in Doddaballapur. As such, this Court must opine that the appellate authority, instead of calling for a report, should have secured records, examined whether indeed the Adjudication Order was dispatched to the petitioner's address.

5. These circumstances justify an interference with the appellate order on the ground of failure to verify the material circumstances. Insofar as the Adjudication Order, the petitioner, without contravention, contends that even as of today the Intimation and the Show Cause Notices are not available on the portal and that the petitioner is not served with these otherwise. Further, the petitioner

even in terms of the Circular can produce documents and certificates to justify the genuineness of the transactions. Hence, the following:

ORDER

The petition is allowed quashing the impugned Adjudication Order dated 28.02.2022 *[Annexure-A]* and the Order-in-Appeal dated 25.03.2026 [*Annexure-D*] subject to the following terms.

[a] The proceedings are restored to the second respondent for due consideration subject to deposit of 10% of the demand.

[b] The petitioner is permitted to file a certified copy of this order, with second respondent.

[c] The second respondent [*on the date of first appearance on* ***21.09.2026***] shall furnish copies of the Intimation in Form GST

DRC – 01A and Show Cause Notice in GST DRC – 01 and extend due opportunity to the petitioner to file a detailed response along with the documents.

[d] The petitioner shall produce such documents within such time as maybe allowed by the second respondent, and the second respondent shall consider these documents and then conclude the proceedings by a reasoned order.

[e] The petitioner shall also ensure that 10% of the demand as now permitted is deposited by ***21.09.2026***.

Sd/-
(B M SHYAM PRASAD)
JUDGE

SA
List No.: 2 Sl No.: 3