HC-KAR
NC: 2024:KHC-D:18649-DB
WA No. 100084 of 2025
CNR: KAHC020214022024

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 1ST DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MRS JUSTICE LALITHA KANNEGANTI

AND

THE HON'BLE MRS JUSTICE K.S.HEMALEKHA

<u>WRIT APPEAL NO.100084 OF 2025 (EXCISE)</u>

<u>BETWEEN:</u>

1. THE STATE OF KARNATAKA,
   BY ADDITIONAL CHIEF SECRETARY,
   FINANCE DEPARTMENT,
   VIDHANA SOUDHA,
   BENGALURU – 560 001.

2. THE EXCISE COMMISSIONER IN KARNATAKA,
   2ND FLOOR, TTMC A BLOCK,
   BMTC BUILDING, SHANTINAGAR,
   BENGALURU – 560 027.

3. THE DEPUTY COMMISSIONER,
   BAGALKOT DISTRICT,
   BAGALKOT – 587 101.

4. THE DEPUTY COMMISSIONER OF EXCISE,
   BAGALKOT DISTRICT,
   BAGALKOT – 587 101.

… APPELLANTS

(BY SMT. RASHMI PATEL, HCGP)

AND:

MANOJI
S/O. JAMPANNA TORGAL,
AGE: 71 YEARS,
OCC: BUSINESS,
R/O: SHIKHARKANE ROAD,
VIJAYAPURA,
DIST: VIJAYAPURA – 586 101.

... RESPONDENT

(BY SRI. SHREEVATSA HEGDE AND
SRI. ABHILASH HANAMANNAVAR, ADVOCATES)

THIS WRIT APPEAL IS FILED U/S. 4 OF KARNATAKA HIGH COURT ACT, 1961, PRAYING TO CALL FOR THE RECORDS IN W.P. NO. 101865/2023 (EXCISE) DATED 03.01.2024 ON THE FILE OF THE LEARNED SINGLE JUDGE, HIGH COURT OF KARNATAKA, DHARWAD BENCH, DHARWAD. TO SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE, HIGH COURT OF KARNATAKA, DHARWAD BENCH, DHARWAD IN W.P. NO. 101865/2023 (EXCISE) DATED 09.01.2024 AND ETC.

THIS WRIT APPEAL, COMING ON FOR PRELIMINARY HEARING THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS JUSTICE LALITHA KANNEGANTI
AND
HON'BLE MRS JUSTICE K.S.HEMALEKHA

ORAL JUDGMENT

(PER: HON'BLE MRS JUSTICE K.S.HEMALEKHA)

1. This intra-Court appeal is preferred by the State, impugning the order passed by the learned Single Judge dated 09.01.2024 in W.P. No.101865 of 2023 (EXCISE).

2. By the impugned order, the learned Single Judge allowed the writ petition and directed the appellants to treat the excess amount of ₹43,23,475/- paid towards the liability of M/s. Nagalingaswami Trading Company (for short "NTC") as payment made towards the liability of M/s. Torgal Group (for short "TG") under the Karasamadhana-IV Scheme (for short "the Scheme"). Further, the appellants were directed to remove the lien/charge on the properties of the respondent (petitioner) by accepting the satisfaction of the dues by the petitioner. Liberty was reserved to the appellants-State to recover the arrears of amount, if any, due from TG.

BRIEF FACTS:

3. The respondent was a partner of NTC and had obtained arrack-vending rights in auction for the years 1987-88 and 1991-92 in respect of Mudgal and Bilagi taluks. An outstanding amount was due in relation to NTC and also in relation to TG.

4. The appellant-State introduced the Karasamadhana-IV Scheme to alleviate the difficulties faced by arrack vendors by granting waiver of interest on out standing due. The Scheme, initially introduced by notification dated 08.06.2016, was subsequently extended up to 31.10.2017.

5. Pursuant to the application submitted by the respondent, the Deputy Commissioner, Bagalkot addressed a communication dated 28.09.2016/05.10.2016 to the Excise Commissioner, detailing the payments made by the respondent towards settlement of the principal amount due from NTC and also recorded that an excess payment of ₹43,23,475/- has been made by the respondent.

6. Thereafter, by a letter dated 31.10.2017, respondent requested the authorities to adjust the excess amount paid towards the liability of NTC against the dues payable by TG. Proceeding on the basis of the proposed adjustment, the respondent also remitted the balance amount of ₹27,04,625/- on 31.10.2017 towards full satisfaction of the dues of TG.

7. The proposal forwarded by the Deputy Commissioner, Bagalkot came to be rejected by the Government by order dated 24.11.2021 on the ground that the excess amount made in relation to one firm could not be adjusted towards the liability of another firm.

8. Consequent upon the rejection of the proposal, the Government initiated recovery proceedings for arrears against TG and the respondent. However, the encumbrance created over the petitioner's properties were not removed, as the authorities took the view that the excise dues were recoverable as arrears of land revenue under the Karnataka Excise Act, 1965.

9. Aggrieved, the petitioner approached this Court in Writ Petition No.101865 of 2023 seeking a direction to the respondents to treat the excess amount paid towards the liability of NTC as payment made towards the liability of TG.

10. The learned Single Judge allowed the writ petition and directed the respondents to treat the excess amount paid towards the liability of NTC as payment made towards the liability of TG under the Scheme.

FINDINGS OF THE LEARNED SINGLE JUDGE:

11. The learned Single Judge, observed that the respondent had paid the entire arrears of excise duty towards the liability of NTC within the stipulated time. The State was already in possession of the excess amount paid by the respondent. The State's contention was that adjustment would result in loss to the exchequer, which was unsustainable. Further observed that, the refusal to adjust the excess amount would amount to unjust

enrichment and the respondent could not be deprived of the benefit available under the Scheme.

CONTENTIONS OF THE PARTIES:

12. The learned HCGP appearing for the State would contend that directing adjustment of the excess amount paid by the NTC towards the liability of TG is unsustainable since both firms are distinct and independent entities. It is contended that the respondent was not the partner of TG and that there was no provision under the Karnataka Excise Act or the Scheme permitting such an adjustment.

13. *Per contra*, the respondent contended that the Scheme was intended to facilitate the recovery of the principal amount and grant a wavier of interest. According to the respondent, once the excess amount had already been deposited with the State, the authorities were under an obligation to adjust the said amount towards the liability of TG, as requested by the respondent.

14. It is contended that the identity of the person making payment of the principal amount was immaterial, since the principal object of the Scheme was to ensure recovery of the outstanding dues (principal amount). It is submitted that recovery proceedings had been initiated against both the respondent and TG. Therefore, the Sate could not deny the benefit of the Scheme merely because the excess payment pertain to another firm.

REASONS AND ANALYSIS:

15. Having considered the submissions and perused the material on record, we find no grounds to interfere with the impugned order passed by the learned Single Judge.

16. It is relevant to refer to the preamble of the Karasamadhana-IV Scheme introduced by the State on 08.06.2016, which reads as under:

> *"PREAMBLE:*
>
> *The Excise Arrears as on 31.03.2015 was Rs.808.59 Crores out of which Rs. 215.64 Crores was the principal amount and Rs.592.95 Crores was the interest chargeable on principal amount. In order to*

recover the excise arrears expeditiously, Government had earlier introduced "Karasamadhana Schemes" to liquidate the excise Arrears. During the first Karasamadhana Scheme from 01.10.2002 to 29.12.2002 an amount of Rs. 12.82 crores was recovered, during the second Karsamadhana Scheme from 01-08-2006 to 14-11-2006 an amount of Rs.34.07 crores was recovered and during the third Karsamadhana Scheme from 01-06-2010 to 30-06-2011 an amount of Rs. 18.27 crores was recovered.

Therefore, in order to recover the principal amount of Rs. 215.04 Crores due from the defaulters, Government in the Budget speech for the year 2015-16, have proposed to formulate a new Karasamadhana Scheme to collect the arrears related to toddy and arrack. Under the Scheme those who pay the principal amount in respect of arrack/toddy rentals or, other excise dues on or before 30-09-2016 will be given relief in respect of interest and penal interest dues. Therefore, It is felt necessary to lay down the procedure for dealing with such cases under this Scheme."

17. The object of the Scheme was to ensure expeditious recovery of the excess arrears by granting relief in respect of interest and penal interest, upon payment of

interest and the principal amount due from the defaulters. The period prescribed under the Scheme was extended to 31.10.2017.

18. It is not in dispute that the respondent paid the entire arrears of excise duty relating to the liability of NTC within the stipulated period. Thereafter, it was noticed that the respondent had made an excess payment of ₹43,93,375. On 31.10.2017, the respondent submitted a representation seeking adjustment of the excess amount towards the liability of TG.

19. The State rejected the said request on the principal ground that the representation has not been submitted by TG and that acceptance of such request would result in loss to the exchequer. The said reasoning, however, is unsustainable. The respondent has already deposited the excise duty amount payable towards the liability of NTC, and the excess amount remained with the State. In such circumstances, the State ought to have adjusted the excess amount towards the liability of TG.

20. We hold that it is immaterial as to who makes the payment, since the Scheme is intended to recover the principal amount. Once the principal amount was recovered, the only ratio that remained for consideration was the grant of a wavier in respect of the interest and penal interest. Consequently, the State cannot now be heard to contend that the respondent was disentitled to the benefit of the Scheme merely because the excess payment had originally been made in connection with another firm. Accordingly, we are of the considered view that the order passed by the learned Single Judge does not warrant any interference. The writ appeal is devoid of merits and is accordingly ***dismissed***.

Sd/-

JUSTICE LALITHA KANNEGANTI

Sd/-

JUSTICE K.S.HEMALEKHA

VNP / CT: ASC
List No.: 1 Sl No.: 15