HC-KAR
NC: 2026:KHC-D:14126
WP No. 103475 of 2025
CNR: KAHC020090332025

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 29TH DAY OF AUGUST, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 103475 OF 2025 (T-RES)

BETWEEN:

SHRI JINARAJ AND CO REGISTERED
PARTNERSHIP FIRM,
R/BY ITS AUTHORIZED PARTNER,
SHRI JINARAJ S/O YOGARAJ,
AGE: 57 YEARS, OCC. BUSINESS,
R/O. LAXMI VENKATESH SADAN,
COURT ROAD, GIDIGARA GALLI KUMTA,
KUMTA, DISTRICT: UK-581343.

... PETITIONER

(BY SRI. SANGRAM S. KULKARNI, ADVOCATE)

AND:

1. THE EXECUTIVE ENGINEER,
PROJECT DIVISION (PMGSY),
KARWAR.

2. THE EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT,
SIRSI, UK.

3. THE EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT,
UDUPI.

... RESPONDENTS

(BY SRI. SHARAD V. MAGADUM, AGA FOR R1 TO R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENT NO.1 THE EXECUTIVE ENGINEER, PROJECT DIVISION (PMGSY), KARWAR TO CONSIDER THE REPRESENTATION DATED 19/08/2024 VIDE ANNEXURE-A GIVEN BY THE PETITIONER AND PAY A SUM OF RS.2,61,39,730/- TOWARDS GST AND ETC.,

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

ORAL ORDER

(PER: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM)

The captioned writ petition is filed by the petitioner, a Class-I Civil Contractor, seeking a writ in the nature of mandamus directing respondent No.1 to consider the representation dated 19.08.2024, produced at Annexure-A, and consequently to pay a sum of ₹2,61,39,730/- towards Goods and Services Tax (GST). The petitioner has also sought a consequential direction to respondent No.2 to consider the representation dated 19.08.2024, produced at Annexure-B, and pay a sum of ₹25,18,601/- towards GST. A further direction is sought against respondent No.3 to consider the representation dated 19.08.2024, produced at Annexure-C, and, upon remitting the requisite fee, pay a sum of ₹12,44,109/- towards GST.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Advocate appearing for the respondents. Perused the pleadings and the material placed on record.

3. The petitioner is a Civil Contractor and claims to have been awarded several works by the respondent-authorities relating to improvement and construction of roads during the period from 2018-2019 to 2022-2023. The principal grievance of the petitioner is that, under the terms and conditions of the respective tenders, although the tendered rates included all duties and taxes leviable and payable by the contractor, GST was subsequently leviable at the applicable rate of 12%.

4. It is the specific contention of the petitioner that, having regard to the statutory scheme governing GST, the tax component is ultimately liable to be borne by the recipient of the taxable service. According to the petitioner, notwithstanding the liability towards GST and the invoices/bills raised in respect of the works executed, the respondent-authorities have failed to consider the representations submitted by the petitioner seeking payment of the GST component. The petitioner, therefore, seeks a direction to the respondents to consider and dispose of the representations produced at Annexures-A to C.

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5. Per contra, learned Additional Government Advocate, reiterating the stand taken in the statement of objections, would contend that the petitioner had quoted the tender rates inclusive of all taxes and duties. It is therefore contended that, since the bills raised by the petitioner were duly scrutinized and paid by the respondent-authorities inclusive of all applicable taxes, no further amount towards GST is payable. Learned Additional Government Advocate would further contend that the rates quoted by the petitioner themselves included the 12% GST component and, therefore, the petitioner cannot, under the guise of claiming the GST component, raise additional bills over and above the tendered and accepted rates.

6. Having heard the learned counsel for the parties and upon consideration of the material placed on record, this Court finds that the grievance of the petitioner requires consideration by the competent respondent-authorities.

7. The issue as to the liability towards payment of GST in respect of taxable services is no longer *res integra*. This Court has consistently held that the service recipient is liable to

bear the applicable GST component, notwithstanding the fact that the initial statutory obligation of depositing the tax with the GST Department may be upon the contractor/service provider. Once the applicable GST is leviable on the taxable service and the service provider raises an invoice incorporating the applicable GST component, the service recipient is required to discharge the liability towards such GST in accordance with law. The relevant consideration, in this regard, would also be the applicable rate of GST prevailing on the date on which the invoice is raised.

8. In the present case, the stand of the respondent-authorities is that the final bills paid to the petitioner were inclusive of the applicable 12% GST component. If that be so, the respondent-authorities are required to demonstrate the same by furnishing a proper and intelligible breakup of the amounts paid under the respective final bills, indicating the component attributable towards GST. Such determination necessarily requires consideration of the individual bills, invoices, tender conditions and the payments already made to the petitioner.

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9. It is not in dispute that the petitioner has submitted representations dated 19.08.2024 to the concerned respondent-authorities and that the said representations are accompanied by the relevant bills and supporting documents. The representations, however, have remained undecided. The petitioner has a legitimate grievance in seeking consideration of the representations in accordance with law. The respondent-authorities, being the competent authorities, are under an obligation to consider the representations, examine the relevant records and communicate a reasoned decision to the petitioner.

10. Merely keeping the representations pending without taking a decision thereon would leave the petitioner without an efficacious remedy in respect of the claim asserted by him. At the same time, this Court is not required, at this stage, to adjudicate upon the actual entitlement of the petitioner to the amounts claimed towards GST. The determination of such entitlement, including whether the amounts already paid under the final bills included the GST component, is required to be

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undertaken by the competent respondent-authorities upon examination of the relevant records.

11. In that view of the matter, this Court is of the considered opinion that the present petition deserves to be disposed of by issuing appropriate directions to respondents No.1 to 3 to consider the respective representations submitted by the petitioner and take a reasoned decision thereon in accordance with law.

12. Accordingly, this Court proceeds to pass the following:

ORDER

i. The writ petition is ***allowed in part***.

ii. Respondents No.1 to 3 are directed to independently consider the respective representations submitted by the petitioner, produced at Annexures-A to C, respectively, in accordance with law.

iii. While considering the said representations, the respective respondent-authorities shall examine the relevant tender conditions, bills, invoices, payments

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already made and the applicable GST liability, and shall pass reasoned and speaking orders dealing with the claim of the petitioner.

iv. The decision so taken shall be communicated to the petitioner.

v. The aforesaid exercise shall be completed within a period of six weeks from the date of receipt of a certified copy of this order.

vi. It is made clear that this Court has not expressed any opinion on the merits of the petitioner's claim for payment of the amounts towards GST, and the competent authorities shall consider the claim independently and strictly in accordance with law.

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(SACHIN SHANKAR MAGADUM)
JUDGE

MBS, AM
CT:BCK
LIST NO.: 1 SL NO.: 4.1