IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 11TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.M.NADAF

WRIT PETITION NO.107390 OF 2026 (T-RES)

BETWEEN:

M/S. KING ENTERPRISE,
R/BY MOHAMMED KHAN (PROPRIETOR)
NO.87 68, BELUR INDUSTRIAL AREA,
DHARWAD-580008.

...PETITIONER

(BY SRI. SHRIDHAR VEERAPUR, ADVOCATE AND
SRI. BHAGAVATH P., ADVOCATE)

AND:

ASSISTANT COMMISSIONER
OF COMMERCIAL TAXES (AUDIT),
NISARGA BUILDING, 1ST FLOOR, HUDCO 2ND CROSS,
MULGUND ROAD, GADAG-582103.

...RESPONDENT

(BY SMT. NANDINI SOMAPUR, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A. TO ISSUE ORDER(S), DIRECTION(S), WRIT(S) IN THE NATURE OF CERTIORARI QUASHING THE ORDER-IN-ORIGINAL BEARING REF NO.ACCT/ADT/GDG/DRC-07/2026-27/B DATED 29.04.2026 ENCLOSED AS ANNEXURE-A, TO THE EXTENT PRE-JUDICIAL TO THE PETITIONER; B. TO ISSUE ORDER(S), DIRECTION(S), WRIT(S) IN THE NATURE OF CERTIORARI QUASHING THE SUMMARY ORDER IN FROM DRC - 07 BEARING REFERENCE NO.ZD290426150046E DATED 29.04.2026, ISSUED BY RESPONDENT ENCLOSED AS ANNEXURE-A1, TO THE EXTENT PRE-JUDICIAL TO THE PETITIONER; C. TO ISSUE ORDER(S), DIRECTION(S), WRIT(S) IN THE NATURE OF MANDAMUS DIRECTING THE RESPONDENT TO ADJUDICATE THE MATTER AFRESH AFTER AFFORDING THE PETITIONER A REASONABLE AND EFFECTIVE OPPORTUNITY OF PERSONAL HEARING, DULY CONSIDERING THE REPLIES FILED BY THE PETITIONER TOGETHER WITH ALL DOCUMENTARY EVIDENCE AND SUBMISSIONS, AND THEREAFTER PASS A REASONED AND SPEAKING ORDER IN ACCORDANCE WITH

LAW; D. TO ISSUE ORDER(S), DIRECTIONS, WRIT(S) IN THE NATURE OF MANDAMUS, DIRECTING THE RESPONDENT TO HOLDING THAT NO INTEREST AND PENALTY IS PAYABLE BY THE PETITIONER UNDER THE IMPUGNED ORDER ENCLOSED AT ANNEXURE-A; E. TO ISSUES ORDER(S), DIRECTIONS, WRIT(S) OR ANY OTHER RELIEF AS THIS HON'BLE COURT DEEMS IT FIT AND PROPER IN THE FACTS AND CIRCUMSTANCE OF THE CASE IN THE INTEREST OF JUSTICE.

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

CORAM: HON'BLE MR. JUSTICE T.M.NADAF

ORAL ORDER

This Writ Petition is filed seeking following relies:

*"**WHEREFORE**, it is respectfully prayed that this Hon'ble Court may be please to:*

*a. To issue order(s), direction(s), wirt(s), in the nature of Certiorari quashing the Order-in-Original bearing Ref No.ACCT/ADT/GDG/DRC-07/2026-27/B issued by the respondent dated 29.04.2026 enclosed as **Annexure-A**, to the extent pre-judicial to the petitioner;*

*b. To issue order(s), direction(s), writ(s) in the nature of Certiorari quashing the summary order in Form DRC – 07 bearing Reference No. ZD290426150046E dated 29.04.2026, issued by respondent as **Annexure-A1**, to the extent pre-judicial to the Petitioner;*

c. To issue order(s), direction(s), writ(s) in the nature of Mandamus directing the Respondent to adjudicate the matter afresh after affording the Petitioner a *reasonable and effective opportunity of personal hearing, duly considering the replies filed by the Petitioner together with all documentary evidence and submissions, and thereafter pass a reasoned and speaking order in accordance with law;*

d. To issue order(s), directions, writ(s) in the nature of Mandamus directing the Respondent to holding that no interest and penalty is payable by the Petitioner under the Impugned Order enclosed at Annexure-A;

e. To issue order(s), directions, writ(s) or any other relief as this Hon'ble Court deems it fit and proper in the facts and circumstances of the case in the interest of justice."

2. The Adjudication Officer has passed the Order in Original vide Annexure-A dated 29.04.2026, whereby adjudicated the Tax as well as Penalty at Rs.91,00,384/-. Further ordered that, if the taxpayer pays the tax, interest and a reduced penalty of 50% within thirty days of receiving the order, the proceedings are concluded. Failure to pay within the timeframe, results in full 100% penalty being payable and potential recovery proceedings.

3. Further directed that, along with the above tax liability, the taxpayer is also liable to pay penalty equivalent to 100% of the tax liability under each act, if failed to pay the tax and interest as per the above table within 30 days' of issue of DRC-07 as per Section 74(9) of the GST Act, 2017.

4. Heard Sri.Bhagwati P., learned counsel appearing for the petitioner and Smt.Nandini Somapur learned AGA for the respondent/state.

5. Facts germane to file the present petition are as under:

5.1 The petitioner is a registered Proprietorship concern, engaged in the business of ferrous waste and scrap trade, including remelting scrap ingots of iron or steel, and has been regularly carrying on business under the GST regime holding GSTIN: 29ALHPK4646E3ZX.

5.2 A show cause notice was issued on 09.12.2025 by the respondent in Form GST DRC-01 bearing Reference No.ZD291225080066C, proposing reversal of Input Tax Credit.

6. As per Sri.Bhagwati P., the show cause notice and all subsequent communications, including reminders fixing a personal hearing were uploaded only on the common GST portal. Owing to a change in the petitioner's GST consultant during the relevant period and the fact that the communications remained unnoticed on the portal, the petitioner could neither submit an effective reply nor appear before the Respondent during the adjudication proceedings.

7. Though several reminders were issued by the respondent on 13.01.2026, 06.02.2026 and 26.02.2026, but all were uploaded only on the GST portal. As stated supra, since the communications were unnoticed, the petitioner remained unaware of the proceedings and in

consequence thereof, he did not participate in the adjudication. In that view of the matter, the entire proceedings went in *ex-parte,* passing the Order in Original determining the Tax as well as Penalty payable to the extent of Rs.91,00,384/-.

8. This case pertains to the adjudication orders/summary for the period between April-2023 to March-2024.

9. Sri.Bhagavati P., in support of his case referred and relied on the judgment of Co-ordinate Bench of this Court in W.P.No.24780/2026 disposed on 12.08.2026 in the case of ***M/S. ZEAL GROUP VS. DEPUTY COMMISSIONER OF COMMERCIAL TAXES (AUDIT)-5.9***, ***(M/S. ZEAL GROUP)*** and submits that, the Coordinate Bench of this Court, in the similar circumstances, considering the case of the petitioner allowed the Writ Petition, quashed the Order in Original passed by the respondent and remitted the matter,

restoring the proceedings on the file of respondent for due consideration subject to petitioner depositing 10% of the Tax in demand, within the period granted by the Court, which is subject to the outcome of the restored proceedings and permitted the petitioner to file response to the show cause notice along with the copy of the order and the copies of the documents to show the genuineness of transactions.

10. Smt.Nandini Somapur, learned AGA would submit that the contention of Sri.Bhagavati.P., that all communications are uploaded only in the common GST portal, are not tenable. Apart from uploading the dates of the reminders, communications, show cause notice and fixing the date of personal hearing in common GST portal, the same are also communicated through email as well as post. In that view of the matter, the contention of the petitioner does not hold any water. She further submits that the authority passed the Order in Original, after

affording sufficient opportunity, which was not availed by the petitioner. In these circumstances, the authority proceeded to pass the order on the available documents. As such, the same does not call for any interference by this Court.

11. Having considered the rival submissions, this Court has perused the entire writ petition papers.

12. To the query of the Court, learned AGA is unable to point out the documents which has been sent by way of e-mail as well as post, apart from uploading the same in common GST portal. In that view of the matter, this Court has to consider that, the show cause notices and subsequent communications including demand and other things were uploaded only on the common GST portal and that, as contented by the learned counsel, Sri.Bhagavati P., were remained unnoticed.

13. The petitioner should have been more circumspect and cautious while maintaining his documents and records, so also the dealings with the State Revenue Authorities. The matter pertains to revenue of the State, however, at the very same time, it cannot be lost sight that, the entire matter went *ex-parte* without affording an opportunity under law as per the provisions contained in the GST Act, 2017.

14. The Coordinate Bench of this Court in the case of ***M/S. ZEAL GROUP*** (supra), upon consideration of the rival submissions, allowed the Writ Petition, restoring the proceedings subject to the petitioner depositing 10% of the tax in demand. The relevant paragraphs finds place in paragraph Nos.5 and 6, read as under:

> *"5. This Court, in the circumstances, examines whether the petitioner must be admitted to another reasonable opportunity based on the peculiarities of the case. The respondent has referred to the Show Cause Notice in GST DRC-01 dated 23.07.2024 being uploaded on the common portal according to the Act without mentioning the other modes of communication of the Show Cause Notice. The*

respondent has also referred to an opportunity of personal hearing being extended to the petitioner observing that the petitioner has not availed this opportunity but without further details of the opportunity so extended. The relevant part of the Adjudication Order read thus.

> *"In view of natural justice three opportunities of time and personal hearing was offered vide ref (3,4 and 5). Further all the correspondence was done through GST common portal which enables the RTP to view the notices or correspondence done on their personal dashboard. However the RTP has not responded. In addition, an email was also sent to the registered email address vide reference*
>
> *(6). Despite receipt of the show cause notice, the Designated Authorized Representative (DAR) of the taxpayer failed to file any reply. The undersigned also sent communications to the authorized email address and contacted the authorized mobile number as uploaded on the portal. However, no response was received and no reply was submitted."*

6. The petitioner contends that the mismatch between Forms GSTR-3B and GSTR-2A can be explained with the support of the documents, When all the circumstances are considered, this Court is of the view that the petition must be disposed of extending another opportunity to the petitioner without expressing any view on reading down Section 16[2][c] of the CGST/ KGST Act, 2017 and Rule 36[4] of the CGST/ KGST Rules, 2017. Hence, the following

ORDER

> *The petition is allowed and the Adjudication Order dated 30.12.2025 [Annexure-A] and*

Summary of the Order dated 30.12.2025 [Annexure-A1] are quashed subject to the following terms.

[a] The proceedings are restored to the respondent for due consideration subject to the petitioner depositing 10% of the tax in demand by 30.09.2026 subject to the outcome in the restored proceedings.

[b] The petitioner is permitted to file a response to the Show Cause Notice along with a certified copy of this Order and the copies of the documents to show the genuineness of the transactions along with the reconciliation.

[c] The petitioner shall produce these documents by 30.09.2026 and the respondent shall consider these documents and then conclude the proceedings by a reasoned order."

15. In the case on hand too, the petitioner submits that mismatch between the forms GSTR-3B and GSTR-2A can be explained with the support of the documents and in the case on hand, the supplier has filed the returns, however, his registration was cancelled, the said facts were not brought to the notice of the authority before passing an Order. If the matter is remanded and an opportunity is granted, the same would be explained and

satisfied in terms of the provisions contemplated under the GST Act, 2017.

16. Considering the submissions and in view of the order passed by the Co-ordinate Bench of this Court, ***M/S. ZEAL GROUP*** (supra), the petition deserves to be allowed.

17. In the result, I proceed to pass the following:

ORDER

i. The petition is ***allowed*** and the adjudication order and summary order dated 29.04.2026 passed in Ref No.ACCT/ADT/GDG/DRC-07/2026-27/B are hereby quashed.
ii. The proceedings are restored to the file of respondent for due consideration subject to the petitioner depositing 10% of the tax in demand on or before 05.10.2026 subject to the outcome in the restored proceedings.
iii. The petitioner is permitted to file a response to the show cause notice along with the certified copy of this order and the copies of the

documents to show the genuineness of the transactions along with the reconciliation.

iv. The petitioner shall produce the documents by 05.10.2026 and the respondents shall consider the documents and then conclude the proceedings by a reasoned order within two months thereafter.

Sd/-
(T.M.NADAF)
JUDGE

SRA
CT: UMD
List No.: 1 Sl No.: 37