HC-KAR

NC: 2026:KHC-K:9830
WP No. 202258 of 2026

CNR: KAHC030062752026

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 18TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO. 202258 OF 2026 (T-RES)

BETWEEN:

M/S GANGA MEDICAL STORES
REPRESENTED BY ITS PROPRIETRIX
SMT. SOUMYA
D/O SRI PRABHU GANGA
AGED ABOUT 32 YEARS
SHOP NO.22/242, GROUND FLOOR
GANGA COMPLEX, AGADI LAYOUT
NEAR BUS STAND, BIDAR-585330

...PETITIONER

(BY SMT. SWATI AND SMT.RAMA P.V., ADVOCATES)

AND:

1. DEPUTY COMMISSIONER OF COMMERCIAL TAXES (AUDIT), DGSTO, OPP.HOTEL ASHOKA
NEAR TAHASILDAR OFFICE
BIDAR-585330 AND OTHERS

2. COMMISSIONER OF CENTRAL TAX
AND CENTRAL EXCISE
BEHIND TV STATION
KAPNOOR, KALABURGI-585104

...RESPONDENTS

(BY SRI.MALLIKARJUN SAHUKAR, AGA FOR R1;
SRI.GIRISH S. HULIMANI ADV., FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A) ISSUE A WRIT OF CERTIORARI OR ANY OTHER SUITABLE WRIT QUASHING THE ORDER UNDER SECTION 73(9) DATED 11/12/2025 BEARING NO. DCCT/ADT/BDR/ADJORDER/2024-25 ALONG WITH SUMMARY ORDER OF BEARING REF NO.ZD2912250983541 IN FORM GST DRC-07 FOR THE PERIOD 2021-22 ISSUED BY RESPONDENT NO.1 AND ENCLOSED AS ANNEXURE-E; B) ISSUE A WRIT OF CERTIORARI OR ANY OTHER SUITABLE WRIT QUASHING THE SHOW CAUSE NOTICE UNDER SECTION 73(1) DATED 24/09/2025 BEARING NO.DCCT/ADT/BDR/DRC-01/2025-26 ALONG WITH SUMMARY OF SHOW CAUSE NOTICE IN FORM GST DRC-01 FOR THE PERIOD BEARING 2021-22 REFERENCE NO.ZD290925162049W ISSUED BY RESPONDENT NO.1 AND ENCLOSED AS ANNEXURE D; C) AND PASS SUCH OTHER ORDERS AS THIS HONOURABLE COURT DEEMS FIT AND PROPER IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: **HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL**

ORAL ORDER

In this writ petitioner, the petitioner is seeking for the following prayers:

> *" A. Issue a Writ of Certiorari or any other suitable Writ quashing the order under section 73(9) dated 11/12/2025 bearing No. DCCT/ADT/BDR/AdjOrder/2024-25 along with summary of Order bearing Ref No.ZD2912250983541 in Form GST DRC-07 for the period*

2021-22 issued by Respondent No.1 and enclosed as Annexure E.

B. Issue a Writ of Certiorari or any other suitable Writ quashing the Show Cause Notice under section 73(1) dated 24/09/2025 bearing No.DCCT/ADT/BDR/DRC-01/2025-26 along with summary of Show Cause Notice in Form GST DRC-01 for the pered bearing 2021-22 reference no.ZD290925162049W issued by Respondent No.1 and enclosed as Annexure D.

C. And pass such other orders as this Hon'ble Court deems fit and proper in the interest of justice and equity."

2. Smt. Rama P.V., learned counsel appearing for the petitioner submits that respondent No.1 issued a notice dated 25.07.2025 to conduct an audit of the books of accounts of the petitioner. Thereafter, respondent No.1 conducted the adjudication proceedings and passed the impugned order directing the petitioner to pay tax, penalty and interest. It is submitted that the impugned order is admittedly an *ex-parte* order. The petitioner is a proprietor and was pregnant during the relevant period, and the medical documents produced along with the writ petition substantiate the said fact. Hence, she could neither

respond to the notices nor participate in the adjudication proceedings.

3. Learned counsel for the petitioner seeks to allow the writ petition by remanding the matter to respondent No.1 for fresh consideration, after providing sufficient opportunity to the petitioner to submit her reply and place the necessary material on record. She further submits that the Co-ordinate Benches of this Court, in similar circumstances, have allowed the writ petitions and remanded the matter to the concerned authorities for fresh consideration. Hence, she seeks to pass a similar order by setting aside the impugned order.

4. *Per contra*, Sri. Mallikarjun Sahukar, learned Additional Government Advocate appearing for respondent No.1 supports the impugned order and submits that the petitioner had admitted the service of the notice and, despite having knowledge of the proceedings, remained absent. Hence, the authority had no option but to proceed

with the adjudication and pass the impugned order. It is further submitted that the petitioner has an alternative remedy of appeal under the statute. Hence, he submits that the writ petition is not maintainable and seeks to dismiss this writ petition.

5. In response, learned counsel appearing for the petitioner submits that the statutory remedy of appeal cannot be availed of at this stage, as the period of limitation prescribed for filing the appeal has already expired. Hence, the present writ petition has been filed. She further submits that, in similar circumstances, this Court has considered the issue and remanded the matter to the authority for fresh consideration. Accordingly, she seeks to allow the present petition.

6. I have heard the arguments of learned counsel appearing for the petitioner, learned Additional Government Advocate appearing for respondent No.1,

learned counsel appearing for respondent No.2 and meticulously perused the material on record.

7. The petitioner is a proprietor registered under the provisions of the Goods and Services Tax Act, 2017 ('GST Act' for short). The petitioner was issued a notice dated 25.07.2025 to conduct an audit under Section 73 of the GST Act for the Financial Year 2021-22. Thereafter, respondent No.1 proceeded to issue an intimation of tax demand under Section 73(5) of the Karnataka Goods and Services Tax / Central Goods and Services Tax Act, 2017 along with the summary in Form GST-DRC/01A for the period 2021-22. Respondent No.1, thereafter issued a show-cause notice dated 24.09.2025, along with the summary in the prescribed Form, for the Financial Year 2021-22 and passed the order, which is impugned in the present writ petition.

8. The contention of the petitioner is that she could not participate in the proceedings before respondent No.1,

as she was pregnant during the relevant period and owing to her medical condition, she was required to take rest and undergo medical treatment. Consequently, she could not participate in the proceedings. In order to substantiate the said contention, the petitioner has produced the medical records at Annexure-F, which indicates the petitioner's assertion regarding her pregnancy during the relevant period required acceptance.

9. It is to be noticed that the authorities initially issued a notice proposing an audit. Thereafter, a show-cause notice was issued, the adjudication proceedings were undertaken and the impugned order came to be passed. Admittedly, the impugned order is *an ex-parte* order. The Co-ordinate Bench of this Court in the case of ***SRI. SIDDAPPA Vs. ASSISTANT COMMISSIONER***[1] has considered the similarly placed case and remanded the matter to the concerned Authority for fresh consideration.

[1] W.P.No.204270/2025 dated 14.08.2026

10. Considering the observations made by the Co-ordinate Bench of this Court in the aforesaid decision and taking note of the grounds urged by the petitioner as well as the documents produced by the petitioner, I am of the considered view that the petitioner deserves to be provided one opportunity to submit her reply and place the necessary material before the authority.

11. It is also relevant to note that the statutory remedy of appeal provided Section 107 of the Act, cannot be availed at this length of time, as the prescribed period for filing the appeal has already expired. The petitioner has offered sufficient explanation for her non-appearance before the authority during the adjudication proceedings. Hence, I proceed to pass the following:

ORDER

i) The writ petition is ***allowed***.

ii) The impugned order dated 11.12.2025 passed by respondent No.1 at Annexure-E. is set aside, subject to the petitioner depositing 10% of the tax demanded under the impugned order on or before 14.10.2026.

iii) The matter is remitted to respondent No.1 for reconsideration afresh, in accordance with law, from the stage of submission of the petitioner's reply and documents. The petitioner shall file reply and relevant documents within one(1) month from the date of receipt of a copy of this order.

iv) The petitioner shall appear before respondent No.1 on ***14.10.2026***, without awaiting further notice.

v) Liberty is reserved to the petitioner to file such further reply and documents as may be necessary. Respondent No.1 shall consider the same, provide sufficient and reasonable opportunity to the petitioner, hear the petitioner, and thereafter proceed further, in accordance with law.

vi) In the event the petitioner fails to appear before respondent No.1 on 14.10.2026, as stated *supra*, the impugned order shall stand revived automatically, without further orders.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

PHM
List No.: 1 Sl No.: 38