RESERVED ON 11TH NOVEMBER 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF NOVEMBER, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT APPEAL NO. 1153 OF 2025 (EXCISE)

C/W

WRIT APPEAL NO. 677 OF 2026 (T-RES)

SALES TAX REVISION PETITION NO. 15 OF 2026

IN WA No.1153/2025

BETWEEN:

1. THE DEPUTY COMMISSIONER OF
COMMERCIAL TAXES (AUDIT)
4.3, DVO-IV, 4TH FLOOR
VTK-2, KORAMANGALA
BENGALURU - 560 047

2. THE DEPUTY COMMISSIONER OF
COMMERCIAL TAXES
(AUDIT AND RECOVERY)
BELAGAVI - 590 001

…APPELLANTS

(BY SRI ADITYA VIKRAM BHAT, AGA)

AND:

1. M/S. SHREE RENUKA SUGARS LTD.
REPRESENTED BY ITS
DEPUTY GENERAL MANAGER (FINANCE)

Digitally signed by VEERENDRA KUMAR K M
Location: High Court of Karnataka

SRI RAHUL PATIL
AGED ABOUT 44 YEARS
ADMINISTRATIVE OFFICE:
NO.7, 1ST CROSS
KUMAR KOT ROAD
RACE COURSE ROAD CROSS
BENGALURU - 560 001

2. THE KARNATAKA STATE BEVERAGES
CORPORATION LTD.
(A GOVERNMENT OF
KARNATAKA UNDERTAKING)
NO.78, SEETHALAKSHMI TOWER
MISSION ROAD
BENGALURU - 560 027

3. THE EXECUTIVE DIRECTOR (O)
THE KARNATAKA STATE BEVERAGES
CORPORATION LTD.
4TH FLOOR, TTMC 'A' BLOCK
BMTC BUILDING
K.H. ROAD, SHANTINAGAR
BENGALURU - 560 027

…RESPONDENTS

(BY SRI P.N. MANMOHAN, ADVOCATE FOR
SRI VINAY N., ADVOCATE FOR R-1 &
MS. SUMANA BALIGA, ADVOCATE FOR R-2 & 3)

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 21.10.2024 PASSED BY THE LEARNED SINGLE JUDGE, HIGH COURT OF KARNATAKA, BENGALURU IN W.P.No.9571 OF 2017 & ETC.

IN WA NO. 677/2026

BETWEEN:

1. THE DEPUTY COMMISSIONER
OF COMMERCIAL TAXES (AUDIT)
4.3 DVO-IV, 4TH FLOOR
VTK-2, KORAMANGALA
BENGALURU - 560 047

2. THE DEPUTY COMMISSIONER
OF COMMERCIAL TAXES
(AUDIT AND RECOVERY)
BELAGAVI - 590 001

...APPELLANTS

(BY SRI ADITYA VIKRAM BHAT, AGA)

AND:

1. KARNATAKA STATE BEVERAGES
CORPORATION LIMITED
(A GOVERNMENT OF
KARNATAKA UNDERTAKING)
4TH FLOOR, TTMC, 'A' BLOCK
BMTC BUILDING, K.H. ROAD
SHANTHI NAGAR
BENGALURU - 560 001
REPRESENTED BY THE EXECUTIVE
DIRECTOR (O) KSBC LTD.

2. THE EXECUTIVE DIRECTOR (O)
THE KARNATAKA STATE BEVERAGES
CORPORATION LTD.
4TH FLOOR, TTMC A BLOCK
BMTC BUILDING, K.H. ROAD
SHANTHI NAGAR
BENGALURU - 560 001

3. M/S. SHREE RENUKA SUGARS LTD.
COMPANY REGISTERED UNDER
COMPANIES ACT, 1956
ADMINISTRATIVE OFFICE
NO. 7, 1ST CROSS
RACE COURSE ROAD CROSS
BENGALURU - 560 001
REPRESENTED BY ITS
DEPUTY GENERAL MANAGER (FINANCE)
SRI RAHUL PATIL

4. KARNATAKA APPELLATE TRIBUNAL
REPRESENTED BY ITS REGISTRAR
1ST GATE, 2ND FLOOR
M.S. BUILDING
BENGALURU - 560 001

...RESPONDENTS

(BY MS. SUMANA BALIGA, ADVOCATE FOR R-1 & 2;
SRI P.N. MANMOHAN, ADVOCATE FOR
SRI VINAY N, ADVOCATE FOR R-3)

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 04.09.2025 PASSED BY THE LEARNED SINGLE JUDGE, HIGH COURT OF KARNATAKA, BENGALURU IN W.P.No.25944 OF 2025 & ETC.

IN STRP NO. 15/2026

BETWEEN:

1. STATE OF KARNATAKA
FINANCE DEPARTMENT
VIDHANA SOUDHA
BENGALURU - 560 001

2. THE JOINT COMMISSIONER OF
COMMERCIAL TAXES (APPELS)-4
2ND FLOOR, BMTC BUILDING
SHANTINAGARA
BENGALURU - 560 027

3. THE DEPUTY COMMISSIONER OF
COMMERCIAL TAXES, AUDIT-4.3
DVO-4, 4TH FLOOR
ROOM NO.404
NEAR NATIONAL GAMES VILLAGE
KORMANAGALA
BENGALURU - 560 022

...PETITIONERS

(BY SRI ADITYA VIKRAM BHAT, AGA)

AND:

1. M/S. KARNATAKA STATE BEVERAGES
CORPORATION LIMITED
4TH FLOOR, TTMC 'A' BLOCK
BMTC BUILDING
SHANTHINAGAR
BENGALURU - 560 027

2. M/S SHREE RENUKA SUGARS LTD.
REPRESENTED BY IS MANAGER (ACCOUNTS)
SRI RAHUL PATIL
HAVING ADMINITRATIVE OFFICE AT:
NO.7, 1ST CROSS
KUMAR KOT ROAD
RACE COURSE ROAD
BENGALURU - 560 001

...RESPONDENTS

(BY MS. SUMANA BALIGA, ADVOCATE FOR R-1 &
SRI P.N. MANMOHAN, ADVOCATE FOR R-2)

THIS SALES TAX REVISION PETITION IS FILED UNDER SEC.65(1) OF THE KARNATAKA VALUE ADDED TAX ACT, 2003 PRAYING TO SET ASIDE THE ORDER DATED 12.09.2025 PASSED BY THE HON'BLE KARNATAKA APPELLATE TRIBUNAL IN STA NO.297 OF 2017 PRODUCED AS ANNEXURE-A & RESTORE THE ORDER DATED 31.03.2017 PASSED BY THE JOINT COMMISSIONER OF COMMERCIAL TAXES (APPEALS)-4 IN CST.AP.No.60/2016/2017 PRODUCED AS ANNEXURE -T AND ETC.

THESE WRIT APPEALS AND SALES TAX REVISION PETITION HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA

CAV JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. For the reasons stated in the applications seeking condonation of delay, I.A.No.1/2025 in W.A.No.1153/2025 and I.A.No.1/2026 in W.A.No.677/2026, the same are allowed. The delay in filing the said appeals is condoned.

2. With the consent of the learned counsel for the parties, the appeals were heard together.

3. The principal order was passed by the learned Single Judge in W.P.No.9571/2017 (Excise). It directed the Karnataka Appellate Tribunal [**KAT**] to dispose of the appeal being STA No.297/2017, which was at the material time pending before the learned KAT, in favour of the Karnataka State Beverages Corporation Limited [hereafter **KSBCL**]. This order is appealed in W.A.No.1153/2025.

4. While the said appeal was pending, the KSBCL filed a writ petition being W.P.No.25944/2025 (T-RES), essentially seeking implementation of the order passed in W.P.No.9571/2017 (Excise). The said petition was allowed by the order dated 04.09.2025. This order is impugned in W.A.No.677/2026. The consequential order was passed by the learned KAT on 12.09.2025, which is impugned in STRP No.15/2026.

5. We note that there is no delay in filing STRP No.15/2026. It is apparent from the above that the State had not accepted any of the orders which are impugned in W.A.No.1153/2025, W.A.No.677/2026 and STRP No.15/2026. As noted above, the writ order, which is appealed in W.A.No.677/2026, was a follow up of an earlier order, which was the subject matter of a pending appeal. It is apparent that the Revenue had not accepted the orders

passed by the learned Single Judge and was pursuing its remedies.

6. The Revenue (Deputy Commissioner of Commercial Taxes) has filed W.A.No.1153 of 2025 impugning an order dated 21.10.2024 passed by the learned Single Judge in Writ Petition No.9571 of 2017 (Excise).

7. Respondent No.1, M/s Shree Renuka Sugars Limited [hereafter **SRSL**], had filed the said petition, *inter alia,* praying that KSBCL be directed to refund an amount of ₹56,07,738/- recovered by it pursuant to invocation of the indemnity bond dated 17.08.2013. SRSL also sought directions for KSBCL to release an amount of ₹1,32,97,074/-, which according to SRSL was payable and outstanding.

8. SRSL had furnished an indemnity bond, *inter alia*, indemnifying KSBCL in respect of any liability that may arise from an export of spirits through KSBCL. Since the Revenue had raised a demand under the Central Sales Tax Act, 1956 [**CST Act**] and the Karnataka Value Added Tax Act, 2003 [**KVAT Act**], KSBCL had invoked the indemnity bond.

9. During the course of the proceedings the Revenue was impleaded in the Writ Petition. According to the learned Single Judge, the demand raised by the Revenue under the CST Act and the KVAT Act was not sustainable as the goods in question (spirits) had been exported. The learned Single Judge allowed the writ petition and further directed that KSBCL's second appeal (STA No.297/2017), arising out of the demand raised by the Revenue, be disposed of by the learned KAT in favour of KSBCL.

10. The Revenue preferred an intra Court appeal, W.A.No.1153/2025(Excise), against the said order. The Revenue is essentially aggrieved by the said decision, as according to the Revenue, the taxes were payable as the necessary forms (Form-H) had not been furnished by the KSBCL. The question whether filing of the said form is mandatory, was pending consideration before the learned KAT, which was foreclosed by the learned Single Judge by directing that the said appeal be decided in favour of KSBCL.

11. The KAT did not dispose of the KSBCL's second appeal (STA No.297/2017) as directed by the impugned order dated 21.10.2024. The Revenue also filed an appeal against the

impugned order dated 21.10.2024. This led KSBCL to file writ petition, W.P.No.25944/2025, *inter alia,* seeking a direction for the learned KAT to comply with the impugned order dated 21.10.2024, passed in W.P.No.9571/2017. The learned Single Judge allowed the said writ petition (W.P.No.25944/2025) by an order dated 04.09.2025 and directed the learned KAT to comply with the impugned order dated 21.10.2024.

12. The learned KAT disposed of the second appeal, STA No.297/2017 in favour of KSBCL as directed by the order dated 04.09.2025. The Revenue has filed the revision petition, STRP No.15/2026, under Section 65(1) of the KVAT Act impugning the order passed by the learned KAT.

13. It is material to note that the learned KAT had allowed KSBCL's second appeal solely for the reason that it was directed to do so by the learned Single Judge and not because it found any merit in the KSBCL's appeal.

14. As noted above, the impugned order dated 04.09.2025 passed in W.P.No.25944/2025 rests on the impugned order dated

21.10.2024 passed in W.P.No.9571/2017, inasmuch as it essentially directs compliance with the said order.

15. Thus, the principal challenge in STRP No.15/2026 and W.A.No.677/2026 rests entirely on the challenge to the impugned order dated 21.10.2024 passed in W.P.No.9571/2017.

16. The principal question to be addressed is whether the impugned order dated 21.10.2024 is sustainable.

17. The controversy in the present appeals arises in the following context.

18. That SRSL is a public company, *inter alia*, engaged in manufacture and sale of white sugar and denatured ethanol anhydrous which is an allied product. SRSL has obtained a license for manufacturing the same under the Karnataka Excise (Denatured Spirit and Denatured Spirituous Preparations) Rules, 1967 [hereafter the **Denatured Spirit Rules**].

19. SRSL received an export order from M/s. Kolmar Group AG, Metalli, Baarerstrasse 18, 633 Zug, Switzerland [hereafter **M/s. Kolmar Group**] for supply of 3000 MT of denatured ethanol

anhydrous to be delivered FOB Mumbai Port. M/s. Kolmar Group also issued a purchase order dated 23.07.2013 for export of the said goods.

20. Admittedly at the material time, under Rule 4 of the Denatured Spirit Rules, denatured spirits could be exported only through KSBCL, which was appointed as a licensee. The KSBCL issued a Circular bearing No.135 dated 19.06.2007 setting out the "Sourcing Policy for Rectified Spirit and Denatured Spirit" [**the Circular**]. The Circular sets out a detailed procedure for sourcing of the said products. In terms of clause 6 of the said Circular, the manufacturers were at liberty to contact prospective customers and conclude contracts for rectified spirit and denatured spirit at a predetermined price. It provided that the validity and the quantity of the contract would be in accordance with the allotment order that may be issued by the Excise Commissioner and the KSBCL would in turn place an order for supplies on the manufacturer and the manufacturer would be obliged to deliver the same. The said policy also expressly provided that the manufacturer would be liable for compliances. It was also liable for all losses and taxes.

21. Under clause 16 of the Circular, the manufacturer/ supplier was required to keep KSBCL harmless and indemnified in all matters arising from the supply of spirit and its subsequent disposal.

22. SRSL obtained the necessary No Objection Certificate [**NOC**] from the Excise Commissioner for export of denatured ethanol. SRSL also claimed that it issued a letter dated 19.08.2013 to KSBCL requesting for issue of an Order for Supply [**OFS**] of denatured ethanol for exports. SRSL provided an indemnity bond by an indemnity letter dated 17.08.2013 indemnifying KSBCL against any liability arising from the said transaction.

23. SRSL claims that it transported the goods in question from its manufacturing unit located in Athani Taluk, Belagavi District, to Mumbai port during the period 21.08.2013 to 13.09.2013. SRSL also raised invoices (263 in number) for the said supply on KSBCL, where KSBCL was shown as a consignee of the said goods. KSBCL in turn raised invoice-cum-delivery challan in favour of the overseas buyer: M/s Kolmar Group.

24. The Revenue (The Deputy Commissioner of Commercial Taxes (Audit)-4.3, Bengaluru) issued a notice dated 25.02.2016 to KSBCL under Section 9(2) of CST Act, proposing reassessment of the tax liability on the ground that it was not entitled to the tax benefit as the deemed export turnover declared by it was not supported by declarations in the necessary form – Form "H".

25. KSBCL responded to the said notice and objected to the same. However, the same were rejected and the Deputy Commissioner of Commercial Taxes (Audit)-4.3, Bengaluru passed a reassessment order dated 21.10.2016 under Section 9(2) of the CST Act, determining KSBCL's liability of ₹1,86,92,460/- which was inclusive of tax and interest.

26. Since the demand was in connection with the export of goods manufactured by SRSL, KSBCL invoked the indemnity bond furnished by SRSL. It also preferred an appeal against the reassessment order dated 21.10.2016 under Section 62 of the KVAT Act read with Section 9(2) of the CST Act before the First Appellate Authority [**FAA**][1].

[1] The Joint Commissioner of Commercial Taxes, Appeals-4, Shanthinagar, Bengaluru

27. The FAA dismissed the said appeal by an order dated 31.03.2017. The FAA rejected the KSBCL's contention that it was not required to furnish "H" Forms for claiming exemption of deemed exports.

28. KSBCL impugned the order passed by the FAA by preferring a second appeal, STA No.297/2017, before the learned KAT.

REASONS & CONCLUSION

29. It is clear from the above that KSBCL had invoked the indemnity bond on account of the liability assessed by the Revenue, and the Revenue had raised the liability as the necessary declarations for claiming the benefit, that is, Form "H" had not been furnished.

30. SRSL's writ petition (W.P.No.9571/2017) was premised on the basis that the KSBCL had erroneously invoked the indemnity bond. SRSL also claimed that it had raised invoices showing KSBCL as consignee and the sale was effected against the declaration in Form-H. Thus, SRSL had neither charged nor collected any taxes under the KVAT Act or CST Act. SRSL also

claimed that it had not violated any terms of the Circular and therefore, the invocation of the indemnity bond was illegal.

31. In view of the controversy, the learned Single Judge was required to confine the examination to whether KSBCL had rightly invoked the indemnity bond and had withheld the amounts as claimed by SRSL.

32. The dispute between SRSL and KSBCL was required to be addressed in the context of their *inter-se* obligations. The demand raised by the Revenue could not be made the subject matter of dispute as KSBCL had availed recourse to the statutory remedies in respect of those demands.

33. It is also relevant to note that clause 15 of the Circular also provided that any disputes between the parties may be referred to arbitration.

34. In view of the matter, the question whether the Revenue had rightly reassessed the liability on KSBCL was not a dispute that ought to have been entertained by the learned Single Judge. The said question was the subject matter of KSBCL's appeal under Section 63 of the KVAT Act, which was pending before the learned

KAT, (STA No.297/2017) and thus, the said question is required to be considered by the said Authority.

35. The Additional Commissioner of Commercial Taxes (Legal Affairs) also filed an affidavit in W.P.No.9571/2017 affirming that KSBCL had filed returns claiming deemed export of denatured ethanol anhydrous during the period August, 2013 and September, 2013 of a value of ₹13,04,70,000/- for the month of August, 2013 and ₹12,22,16,250/- for the month of September, 2013, aggregating to ₹25,26,86,250/-. However, KSBCL had failed to furnish the necessary declarations in Form-H in support of the claim for deemed export turnover.

36. The Revenue has also produced the returns and revised returns filed by KSBCL which clearly indicate that it had claimed deemed exports against H-Form and it reflected the direct exports as '0' (Zero). It is the Revenue's case that KSBCL was required to furnish Form-H which had not been furnished.

37. It is also relevant to note that the Deputy General Manager (Finance) of SRSL had also filed an affidavit stating as under:

> "8. It is respectfully submitted that notwithstanding that the First Respondent has acted only as a canalising agent, by virtue of the fact that the First Respondent has raised an Invoice in favour of the foreign buyer, the sale by the First Respondent is an Export Sale as understood under Section 5 (1) of the Central Sales Tax Act, 1956 (hereinafter referred to as the "**CENTRAL ACT**"). Accordingly, the First Respondent while filing its original returns for the tax periods August, 2013 and September, 2013 had declared the said turnovers under the Central Act as Export Sales. Thereafter, inadvertently, or upon being wrongly advised, the First Respondent filed revised returns for the said tax periods declaring the said turnovers as being deemed exports against declarations in Form-H as envisaged in Section 5 (3) of the Central Act.

38. According to the Revenue, the said statement is incorrect as KSBCL had reflected its direct exports in its return as well as in the revised return as '0' (zero). Further, there was no change in regard to KSBCL's claim for deemed exports in both original returns for the month of August, 2013 filed on 17.09.2013 and revised returns filed on 27.01.2014. Similarly, neither the original returns for the month of September, 2013 filed on 07.10.2013 nor the revised returns filed on 29.01.2014 reflected any direct exports.

39. The question whether it was mandatory for the KSBCL to furnish Form-H was neither the issue in the writ petition nor has the said question been addressed by the learned Single Judge. The

learned Single Judge had proceeded on the premise that there is no dispute that the goods had been exported and therefore the demand raised, is not sustainable.

40. In our view, the learned Single Judge had erred in directing the learned KAT to dispose of the second appeal in favour of KSBCL. First of all, it was not apposite for the learned Single Judge to have entertained any question regarding KSBCL's tax liability, which was the subject matter of pending proceedings before the learned KAT. More importantly, the learned Single Judge did not address the principal issue that was pending consideration before the learned KAT; that is, whether it was necessary for KSBCL to furnish Form-H for claiming benefit under deemed exports.

41. In our view, the impugned order inasmuch as it holds that there is no dispute that since SRSL had exported the goods in question, KSBCL's claim for exemption would have to be accepted, cannot be sustained as it fails to address the question whether it was mandatory to furnish the necessary declarations in the prescribed forms.

42. The said impugned order insofar as it directs the transactions between the SRSL and KSBCL to be considered as deemed export and the KSBCL to be relieved of its liability in this regard is also not sustainable for the reason that the said direction has been issued without considering the relevant rules and the principal question whether such an exemption can be granted without furnishing necessary declaration in Form-H, as required.

43. It is also material to note that the impugned order records the Revenue's contention that the transaction is not revenue neutral as Form-H was not furnished by the KSBCL, as it was necessary. However, as mentioned hereinbefore, the learned Single Judge had not considered the said issue.

44. It is also noted that the impugned order rests solely on the basis that the KSBCL is not liable to pay tax and interest as assessed by the Revenue. Since the learned Single Judge's decision in this regard is *ex-facie* erroneous, the impugned order cannot be sustained.

45. We, accordingly, set aside the impugned order dated 21.10.2024 passed in W.P.No.9571/2017 (Excise) and remand the

matter to the learned Single Judge. All contentions regarding the *inter-se* dispute between SRSL and KSBCL are reserved. However, the learned Single Judge shall also examine whether it would be apposite to entertain this dispute in proceedings under Article 226 of the Constitution of India.

46. We may also note that if SRSL has derived any consequential benefits from the impugned order, the same would have to be reversed.

47. In view of our decision, the impugned order dated 04.09.2025 passed by the learned Single Judge in W.P.No.25944/2025, which is impugned in W.A.No.677/2026 is also set aside. Consequently, W.P.No.25944/2025 does not survive and stands disposed of.

48. Since the learned KAT had passed the order dated 12.09.2025 in STA No.297/2017 solely in compliance with the aforementioned impugned orders (impugned orders dated 21.10.2024 and 04.09.2025), the said order is also liable to be set aside.

49. The Revenue's Sale Tax Revision Petition - STRP No.15/2026, is accordingly allowed. The said appeal (STA No.297/2017) is restored before the learned KAT for a decision afresh, uninfluenced by any order passed by this Court in these proceedings. We clarify that nothing stated in this order shall be construed as our opinion on the question whether filing of form H was mandatory and whether KSBCL is entitled to the benefit of deemed exports.

50. The appeals, W.A.No.1153/2025 and W.A.No.677/2025 and the Sale Tax Revision Petition, STRP No.15/2026 are allowed in the aforesaid terms.

51. Pending applications also stand disposed of.

Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE

Sd/-
(K.S. HEMALEKHA)
JUDGE

KMV