



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF JUNE, 2024

BEFORE

THE HON'BLE MR JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 8050 OF 2024 (T-RES)

BETWEEN:

M/S. BANGALORE GOLF CLUB
INCORPORATED UNDER THE THEN MYSORE
SOCIETIES REGISTRATION ACT, 1960
(NOW KNOWN AS KARNATAKA SOCIETIES
REGISTRATION ACT, 1960)
REPRESENTED BY ITS HON. SECRETARY,
SRI. VITTAL BELANDOR,
AGED ABOUT 62 YEARS,
NO.2, SANKEY ROAD,
HIGH GROUNDS,
BENGALURU URBAN-560 001.

...PETITIONER

(BY SRI. SHANKARE GOWDA M. N., ADVOCATE)

AND:

1. COMMERCIAL TAX OFFICER (ENFORCEMENT)-50
SOUTH ZONE, ROOM NO.204,
2ND FLOOR, 'B' BLOCK,
NO.VTK-2, KORAMANGALA,
BENGALURU-560 047.
2. COMMISSIONER OF COMMERCIAL TAXES,
VANIJYA THERIGE KARYALAYA,
GANDHINAGAR,
BENGALURU-560 009.





3. THE GOVERNMENT OF KARNATAKA,
DEPARTMENT OF FINANCE,
REPRESENTED BY ITS SECRETARY,
VIDHANA SOUDHA,
BENGALURU-560 001.

4. THE ADDITIONAL COMMISSIONER OF COMMERCIAL
TAXES (ENFORCEMENT),
SOUTH ZONE,
ROOM NO.204,
2ND FLOOR, 'B' BLOCK,
VTK-2, KORAMANGALA,
BENGALURU-560 047.

...RESPONDENTS

(BY SRI. HEMA KUMAR K., ADVOCATE FOR R1 TO R4)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ADJUDICATION ORDER DATED 29/12/2023 IN NO. ADCOM/ENF/SZ/CTO-50/ADJN_2023-24 U/S 73(9) OF THE KGST ACT ISSUED BY THE R1 (ANNEXURE-H) FOR THE TAX PERIODS 2017-18 AND 2018-19 AS BARRED BY TIME, INVALID AND PASSED WITHOUT AUTHORITY OF LAW, IN THE PETITIONERS CASE AND ETC.,

THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:



ORDER

The petitioner has called in questioned the liability of the petitioner as per order dated 29.12.2023 passed under Section 73(9) of the Central Goods and Services Tax / Karnataka Goods and Services Tax Act, 2017 (for short 'CGST/KGST Act') by respondent No.1 for the tax periods of 2017-18 and 2018-19. The petitioner has also sought for setting aside of the notification dated 13.07.2022 at Annexure-'N' as well as notification dated 06.04.2023 at Annexure-'P'.

2. Learned counsel Sri. Shankare Gowda M.N., appearing for the petitioner submits that the order at Annexure-'H' has been passed under Section 73(9) of the CGST / KGST Act, 2017 with respect to the financial years 2017-18 and 2018-19. It is submitted that such clubbing of financial years and passing common order is impermissible.

3. It is further submitted that without prejudice to the above contention, the impugned order is required to



be set aside as the petitioner has not been granted any opportunity including the one as contemplated under Section 75(4) of the KGST Act before adverse orders are passed against him.

4. After hearing the matter for sometime, while noticing that a common order is passed with respect to the financial years 2017-18 and 2018-19, taking note of the contention that the petitioner was not granted an opportunity as contemplated under Section 75(4) of the KGST Act when the order passed seems to be adverse to the interest of the petitioner, it would meet the ends of justice by setting aside the order on the ground that the petitioner is afforded an opportunity of hearing and to remit the matter back for fresh consideration before respondent No.1.

5. It is made clear that setting aside of the impugned order is not to be taken as recording a finding as regards the contention of the petitioner regarding passing common order for two different financial years.



However, in light of the plea that no sufficient opportunity being given as referred to above, the order is required to be set aside.

6. Accordingly, the order at Annexure-'H' is set aside and the matter is remitted to respondent No.1 to reconsider the matter afresh, after affording an opportunity as mentioned under Section 75(4) of the KGST Act and to proceed in accordance with law. The question of entering into correctness of Annexures-'N' and 'P' does not arise in light of substantive relief being afforded by setting aside the order at Annexure-'H'.

7. In light of remand of the matter, petitioner ought not to take up any contention on the ground of limitation. Petitioner to appear before respondent No.1 without further notice on 22.06.2024.

8. I.A.No.1/2024 for dispensation is allowed. Petitioner is dispensed with production of certified copy of



Annexures-N and P taking note that in the present case, there is no adjudication as regards the said notifications.

Accordingly, petition is ***disposed off***. All contentions are kept open.

**Sd/-
JUDGE**

MCR