(2025) 03 KAR CK 0522

In the Karnataka High Court, Principal Bench

Case No : Writ Petition No. 4485 Of 2025 (T-RES)

Bangalore Rudrappa Vijaykumar APPELLANT

Vs

Assistant Commissioner Of Central Tax Division -5 Gst West Commissinoerate, Bmtc Bus Stand Complex, First Floor, Banashankari, Bengaluru- 560070 & Ors. RESPONDENT

Date of Decision : 28-03-2025

Acts Referred:

Citation : (2025) 03 KAR CK 0522

Hon'ble Judges : M. Nagaprasanna, J

Bench : Single Bench

Advocate : Sunil Kumar S, Rahul Cariappa

Final Decision : Partly Allowed

Judgement

S.R. Krishna Kumar, J

1. In this petition, the petitioner seeks the following reliefs:

“i) Issue a writ of Certiorari and direction in the nature of a writ of certiorari quashing the Order-in-original dated 14.02.2022 for the period July 2017 to March 2018 passed by the Respondent No.1 bearing No.120/2021-22 and DIN 20220257YU0000313596 herein marked as Annexure-A.

ii) Issue a writ of Certiorari and direction in the nature of a writ of certiorari quashing the Show-cause Notice dated 28.07.2020 bearing SCN No. 05/2020-21/GST/AE-V and DIN No.: 20200757YU00008XAE20 for the period July 2017 to March 2018 issued by the Respondent No.2 herein marked as Annexure-B.

iii) And pass such other orders as this Hon'ble Court deems fit and proper including awarding of cost of this writ petition in the interest of justice and equity.

2. Heard learned counsel for the petitioner and learned counsel for the respondents and perused the material on record.

3. After arguing the matter for sometime, learned counsel for the petitioner submits that the petitioner intends to avail the benefit of Amnesty Scheme as contemplated under Section 128(A) of the Central Goods and Service Act, 2013 (for short "the CGST Act") and that the petitioner has deposited the entire tax amount which has been recorded by respondent No.1 as indicated in the Order-in-original vide Annexure-A dated 14.02.2022 passed by respondent No.1 and as such, the impugned order purported to have been passed under Section 74 of the CGST Act may be set aside and the matter may be remitted back to respondent No.1 for reconsideration afresh, in accordance with law, by treating the proceedings as proceedings under Section 73 of the CGST Act and pass appropriate order under Section 73(9) of the CGST Act and by directing respondent No.1 to grant the benefit of Amnesty Scheme, in favour of the petitioner, who would file such an application before respondent No.1.

4. The aforesaid submission is placed on record.

5. In view of the aforesaid facts and circumstances and the submission made by learned counsel for the petitioner that the petitioner intends to avail the benefit of Amnesty Scheme under Section 128(A) of the CGST Act, I deem it just and appropriate to set aside the impugned order at Annexure-D and remit the matter back to respondent No.1 for reconsideration afresh, in accordance with law by issuing certain directions.

6. In the result, I pass the following:

ORDER

i. The petition is allowed.

ii. The impugned Order-in-Original at Annexure-A dated 14.02.2022 passed by respondent No.1, is hereby set aside.

iii. The matter is remitted back to respondent No.1 for reconsideration afresh, in accordance with law.

iv. The petitioner shall appear before respondent No.1 on 01.04.2025 without awaiting further notice from respondent No.1.

v. Respondent No.1 shall pass appropriate orders by treating the proceedings under Section 73 of the CGST Act and pass appropriate orders under Section 73(9) of the CGST Act, within one week from 01.04.2025.

vi. The petitioner is also entitled to file an application to avail the benefit of Amnesty Scheme and if such an application is filed before respondent No.1, respondent No.1 shall grant petitioner the benefit of Amnesty Scheme, as contemplated under Section 128(A) of the CGST Act, in accordance with law.

vii. All rival contentions on all aspects of the matter are kept open and no opinion is expressed on the same.

