



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF JUNE, 2024

BEFORE

THE HON'BLE MR JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 6823 OF 2024 (T-RES)

BETWEEN:

1. M/S BREAKBOUNCE INDIA PVT. LTD.,
A BODY CORPORATE
NO.6 MAKALI VILLAGE,
DASANAPURA HOBLI,
BENGALURU - 562 124,
REPRESENTED BY ITS
DGM ACCOUNTS AND FINANCE,
MR RAVI SHANKAR KUMAR
AGED ABOUT 41 YEARS
(A PUBLIC LIMITED COMPANY
INCORPORATED UNDER THE
COMPANIES ACT, 2013)

... PETITIONER

(BY SRI. RAJU H Y., ADVOCATE)

AND:

1. THE COMMISSIONER OF COMMERCIAL TAXES,
VANIJYA THERIGE KARYALAYA,
1ST MAIN, GANDHINAGAR,
BENGALURU - 560 009
2. THE DEPUTY COMMISSIONER OF
COMMERCIAL TAXES
(AUDIT) 6.9, DGSTO-6,
3RD FLOOR, KIADB BUILDING,





14TH CROSS, 2ND STAGE,
PEENYA INDUSTRIAL AREA
BENGALURU - 560 058

... RESPONDENTS

(BY SRI. HEMA KUMAR, AGA)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH EX-PARTE ADJUDICATION ORDER NO. DCCT(A)-6.9/GST/ADJ/NO.27/2023-24 DATED 21/11/2023 PASSED AND SUMMARY OF THE ORDER ISSUED IN FORM-GST-DRC-07 DATED 21/11/2023 BY THE R2 (ANNEXURE-A) AND ETC.

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

ORDER

Petitioner has challenged the adjudication order dated 21.11.2023 and Summary of the order dated 21.11.2023 issued by the 2nd respondent at Annexure-A, as well as the consequential recovery proceedings initiated by the 2nd respondent.

2. It is the case of the petitioner that the 2nd respondent on the basis of the audit report, had directed the petitioner to discharge the tax dues with interest. Petitioner, it is stated at the initial stage on receipt of audit report had submitted the audited balance sheet and other



books. It is submitted that without considering such documents submitted by the petitioner, adjudication has been completed without proper notice to the petitioner. It is also submitted that the notice is stated to have been served through email, but however, due to bonafide reasons petitioner was not aware and accordingly, it is stated that another opportunity may be granted taking note of the objective of Section 75(4) of the Karnataka Goods and Services Tax Act, 2017 and the ex-parte proceedings may be set aside with liberty to the petitioner to participate in the adjudicating process.

3. Sri. K. Hemakumar, learned Additional Government Advocate submits that sufficient opportunity is granted as is required under law and the contention of the petitioner that he was not aware of the notice dispatched and communicated through email, is by itself is not a sufficient reason.

4. Heard both sides.



5. It is noticed that the order passed is an ex-parte order without the say of the petitioner. Though the electronic mode of service may be sufficient, however, in the peculiar facts of this case, taking note of the substantive rights involved, it would serve the interest of justice by remanding the matter and granting another opportunity to the petitioner to participate and make out his reply to the show cause notice dated 27.09.2023. If the objective of Section 75(4) of the Act is kept in mind, requirement is of providing an opportunity wherever adverse order is sought to be passed.

6. Taking note of such legal mandate, it would be appropriate to permit the petitioner to participate in the adjudication process and accordingly, the order at Annexure-A is set aside. Consequential recovery proceedings initiated by the 2nd respondent at Annexure-B also stands set aside. The matter is restored to the stage of show cause notice. Petitioner is permitted to make out his reply to the show cause notice within a period of four



weeks from receipt of certified copy of the order and question of raising any ground on limitation would not arise. All contentions are kept open.

7. Accordingly, petition is disposed off.

**Sd/-
JUDGE**

VP
List No.: 1 SI No.: 4