



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE S.G.PANDIT

WRIT PETITION NO. 917 OF 2025 (T-RES)

BETWEEN:

M/S. NAKODA AUTO DISTRIBUTORS,
SHOP NO. TF-01 TO TO TF-06,
POOJA ARCADE, 3RD FLOOR
MAVALLI TANK BUND ROAD,
BENGALURU URBAN, KARNATAKA - 560 002,
REPRESENTED BY ITS PARTNER
SHRI. GAUTAM GIRIA,
AGED ABOUT 37 YEARS,
HOLDER OF PAN NO. AKVPG5242M,
S/O CHATTER SINGH GIRIA,
REGISTERED UNDER THE CENTRAL GOODS
AND SERVICES TAX ACT 2017.
(GSTIN NO. 29AALFN7429D1ZZ)

...PETITIONER

(BY SRI. ARYAMAN GHULATI, ADVOCATE)

AND:

THE ASSISTANT COMMISSIONER
OF COMMERCIAL TAX,
LGSTO-111, DGSTO-03, 1ST FLOOR,
BMTB BUS STAND, 4TH BLOCK,
JAYANAGAR, BENGALURU - 560 011.

...RESPONDENT

(BY SRI. K. HEMAKUMAR, AGA)

THIS W.P. IS FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA PRAYING TO QUASH THE EX-PARTE
DECISION OF THE R-1 ISSUED VIDE IMPUGNED ORDER NO.





ZD29112301913H BEARING REFERENCE NO. ACCT(LGSTO)-111/T./2023-2024 DATED 31.10.2023 ALONG WITH SUMMARY THEREOF VIDE FORM GST DRC-07 DATED 16.11.2023 (COLLECTIVELY THE IMPUGNED ORDER HEREIN) (ANNX-A AND A1) ISSUED BY THE R-1 AS ILLEGAL, ARBITRARY AND ISSUED IN VIOLATION OF PRINCIPLES OF NATURAL JUSTICE AND ETC.,

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

CORAM: HON'BLE MR JUSTICE S.G.PANDIT

ORAL ORDER

Shri K.Hemakumar, learned Additional Government Advocate accepts notice for the respondent.

2. Heard the learned counsel for the petitioner and also the learned AGA for the respondent.

3. The petitioner is before this Court under Article 226 of the Constitution of India questioning the *ex-parte* order bearing No.ZD291123018913H bearing Reference No.ACCT(LGSTO)-111/T/2023-2024 dated 31.10.2023 along with summary thereof vide form GST DRC-07 dated 16.11.2023 at Annexures-A and A1. Further, learned



counsel would submit that the father of the partners of the petitioner-firm who are brothers and sons of Shri Chatter Singh Giria, suffered from cancer, which was detected on 05.04.2023 and he was in and out of hospital for treatment. It is further submitted that the father of the petitioner died on 13.02.2024 and to evidence that, the death certificate at Annexure-F is placed on record. Learned counsel would submit that the impugned show-cause notice was issued on 30.09.2023 and 29.09.2023 as at Annexures-D and D1 and the petitioner could not reply or participate in the proceedings before the respondent as his father was undergoing treatment and the petitioner had to attend to his father. In the said circumstances, learned counsel for the petitioner would pray for an opportunity to the petitioner to file objections and participate in the proceedings under Section 73 of Karnataka State Goods and Service Tax (for short, KGST) Act, 2017.



4. Per contra, the learned AGA would submit that the notice in accordance with law in terms of Section 73 of the KGST Act was issued to the petitioner and no fault would be found with the respondent-authority in proceeding further in pursuance to the show-cause notice at Annexures-D and D1 dated 30.09.2023 and 29.09.2023. Thus, he prays for passing appropriate order.

5. Having heard the learned counsel for the parties and on perusal of the entire writ petition papers, I am of the view that the petitioner ought to be given an opportunity to file objections to show-cause notices dated 30.09.2023 and 29.09.2023 at Annexures-D and D1 and thereafter, the respondent to proceed further in the matter. It is seen from the writ petition papers that the petitioner has placed on record, medical records to establish that his father suffered from cancer and ultimately, died of cancer on 13.02.2024. The petitioner's father was in and out of the hospital and to establish that, discharge certificates are produced at Annexures-E to E6



along with death certificate. A perusal of the medical records relating to petitioner's father, it is seen that during the period when the petitioner's father was undergoing treatment, the show-cause notices are issued to the petitioner and proceedings has taken place under Section 73 of the KGST Act, 2017. Apparently, due to the suffering of the petitioner's father of cancer, the petitioner had no opportunity to file objections and participate in the proceedings. In such circumstances, the following:

ORDER

- i) The impugned orders at Annexures-A and A1 order bearing No.ZD291123018913H bearing Reference No.ACCT(LGSTO)-111/T/2-23-2024 dated 31.10.2023 along with summary thereof vide form GST DRC-07 dated 16.11.2023 and consequential orders are quashed.
- ii) The petitioner is granted thirty days time to file objections to show-cause notices at



Annexures-D and D1 dated 30.09.2023 and 29.09.2023 and the petitioner shall appear before the respondent-authority on 06.03.2025.

iii) Since the matter is remitted back to the authority only to provide opportunity to the petitioner under peculiar circumstances, the petitioner shall not raise the question of limitation.

iv) The amount, if any, recovered by order of attachment would be subject to the outcome of the order that would be passed by the respondent-authority.

**Sd/-
(S.G.PANDIT)
JUDGE**

DH
List No.: 1 Sl No.: 36
CT: BHK