



IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 21ST DAY OF JANUARY, 2026

BEFORE

THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

WRIT PETITION NO.109976 OF 2025 (T-RES)

BETWEEN:

M/S. SHRI KESHAV CEMENTS AND INFRA LTD.,
215/2, JYOTI TOWER, 2ND FLOOR,
KARBHAR GALLI, MADHAVPUR VADGAON, BELAGAVI,
REPRESENTED BY ITS AUTHORIZED SIGNATORY
MS. RUPA P.GHADI,
AGE. 47 YEARS, OCC. SERVICE,
R/O. NAZAR CAMP, VADGOAN,
BELAGAVI-590005.

...PETITIONER

(BY SRI. SANGRAM S.KULKARNI, ADVOCATE)

AND:

THE DY. COMMISSIONER OF
COMMERCIAL TAXES (AUDIT),
VANIJYA TERIGE BHAVAN, SECTOR NO.7,
NAVANAGAR, BAGALKOT-587111.



...RESPONDENT

(BY SMT. GIRIJA S.HIREMATH, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI AND QUASH THE IMPUGNED ORDER NO.DCCT/AUDIT/BGK/DRC-07/2025-26 DATED 12.11.2025 PASSED BY THE RESPONDENT DY. COMMISSIONER OF COMMERCIAL TAXES (AUDIT), NAVANAGAR, BAGALKOT VIDE ANNEXURE-K AND ETC.,.



THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING IN "B" GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

ORAL ORDER

The present writ petition is filed seeking the following prayer:

"(1) issue a writ of certiorari and quash the impugned order No.DCCT/Audit/BGK/DRC-07/2025-26 dated 12/11/2025 passed by the respondent Dy. Commissioner of Commercial Taxes (Audit), Navanagar, Bagalkot vide Annexure-K.

(2) issue any other writ, order or direction to which the petitioner is found to be entitled to."

2. The facts of the case are that, the petitioner is a public limited company registered under the Karnataka Goods & Services Tax Act, 2017 (for short, 'KGST Act'). The petitioner is primarily engaged in the business of manufacturing cement and generation of electricity from solar power. The petitioner has two cement manufacturing units, one is at Lokapur and another is at Kaladgi. In the year 2017, the petitioner installed a captive solar electricity power plant in Bisarahalli village of Koppal district. The petitioner has received government order from Government of



Karnataka to set up and produce electricity via G.O.No.381 NCE 2016 dated 02.02.2017, whereby, the petitioner was authorized to set up renewable energy based on solar electrical power plant of 20 megawatts capacity and the plant was commissioned and operative with effect from 01.04.2018. The petitioner for the purpose of setting-up of a plant had purchased capital goods under the State and Central Electricity Regulations. The petitioner was required to seek permission for setting-up of captive power plant and to enter into agreement with power transmission authorities. After the solar plants were commissioned, the petitioner approached the authority on advance rulings under KGST/ CGST Act seeking clarification on eligibility of input credit under Sections 16 and 17 of the CGST Act in respect of input services and capital receipts towards erection, installation and commission of solar power plant at Bisarahalli, Kopal district. The authority passed an order under Section 98(4) of the CGST Act, 2017. After receipt of the advance rulings, the petitioner has been regularly filing its GST returns relating to the power generated by it in its solar power plant of 20 megawatts capacity. After that, the petitioner has obtained the permission for another captive solar power plant of



10 megawatts capacity at Bisarahalli, Koppal district in the financial year 2021-22 and it was operational during the financial year 2021-22. The petitioner is using the power generated from the solar power plant for its manufacturing activities in furtherance of its business. The advance rulings authority has held that Input Tax Credit (ITC) availed by the petitioner and solar plant setup is admissible as electricity generated under 20 megawatt capacity is captively consumed by the petitioner as 10 megawatts solar power plant is also setup by the same assessee under the same GSTN, at the same location, connected to the same grid and the power generated is exclusively transmitted to the same cement plants. In August, 2025, the respondent during the course of its audit for the period of April, 2021 to March, 2022 has observed that the petitioner was ineligible to claim ITC on solar power plant product, insurance and financial services, ineligible on work contracts, construction and vehicle repairs and the letter was addressed on 06.09.2025 under Section 65(6) of the GST Act read with Section 101(4) of KGST Rules, 2017 calling upon the petitioner to file objections, if any. The petitioner had filed his objections on 12.09.2025. Thereafter, the respondents have issued the form on 12.09.2025 under Section



73(5) of the CGST/ KGST Act. In response, the petitioner has filed its reply on 18.09.2025. Thereafter, the respondent issued a show cause notice under Section 73(1) of the GST Act read with Rule 142/1 of the CGST Rules. In response to that, the petitioner has replied on 23.10.2025 requesting to withdraw the show cause notice in its entirety and confirmed the ITC claim by the petitioner and also requested not to raise any demand for tax, interest and penalty and dropping the proceedings under Section 74 of the GST Act. It is the case of the petitioner that, the respondent without following the procedure prescribed under the GST Act and without giving any opportunity of personal hearing as contemplated under Section 75(4) of the GST Act, has arbitrarily passed the impugned order dated 12.11.2025 disallowing the ITC claim by the petitioner and directed the petitioner to remit the sum of ₹7,23,74,871/- as tax liability for the financial year April,2021 to March, 2021 which made the petitioner to come before this Court.

3. Learned counsel appearing for the petitioner submits that, Section 75(4) of the GST Act contemplates that an opportunity of hearing shall be granted where a request is



received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person. It is his argument that, the procedure contemplated under Section 75(4) of the GST Act was not followed by the respondent. It is also submitted that, though there is a remedy available for the petitioner under Section 107 of the GST Act, it is not an effective alternative remedy for the petitioner as the authority who has to grant the advance rulings is superior to the Appellate Authority. In these circumstances, the petitioner has approached this Court by filing the present writ petition, despite the availability of an alternative remedy, as such remedy is not efficacious. It is also submitted that, just because there is an alternative remedy, that itself would not be a ground to disentitle the petitioner to knock the doors of this Court under Article 226 of the Constitution of India. Learned counsel summoned up his arguments by submitting that, the respondent failed to follow the procedure contemplated under Section 75(4) of the GST Act and also the fact that the authority who has refused the advance rulings is superior to the Appellate Authority. Hence, it is submitted that, the impugned order needs to be set aside and the writ petition is maintainable.



4. Learned High Court Government Pleader appearing for the respondent submits that, the petitioner has an alternative remedy under Section 107 of the GST Act. She relied on the order passed by the Co-ordinate Bench of this Court in Writ Petition No.108727/2025 dated 05.01.2026 and submitted that the petitioner has to be relegated to the Appellate Authority and the writ petition is not maintainable.

5. Having heard the learned counsels on either side, perused the material on record. Section 75 of the CGST Act deals with the general provisions relating to determination of tax. Section 75(4) of the GST Act reads as under:

"An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person."

6. Section 75(4) of the GST Act makes it clear that an opportunity of hearing shall be granted where a request is received. Admittedly, in this case, an opportunity of personal hearing is not afforded to the petitioner. When it comes to the effective alternative remedy, this Court finds force in the argument of the learned counsel appearing for the petitioner



that, when the authority who has refused the advance rulings is superior to the Appellate Authority, in the facts and circumstances, it cannot be termed as an effective alternative. In that view of the matter, this Court deems it appropriate to pass the following:

ORDER

- (i) The writ petition is ***disposed of*** by setting aside the order dated 12.11.2025 passed by the respondent.
- (ii) The matter is remanded back to the respondent to reconsider the matter afresh and to pass appropriate orders by affording an opportunity of personal hearing to the petitioner as contemplated under Section 75(4) of the GST Act.
- (iii) All I.As. in this writ petition shall stand closed.

Sd/-
JUSTICE LALITHA KANNEGANTI