



HC-KAR

**IN THE HIGH COURT OF KARNATAKA,  
AT DHARWAD**

**DATED THIS THE 22<sup>ND</sup> DAY OF JANUARY, 2026**

**BEFORE**

**THE HON'BLE MRS JUSTICE K.S.HEMALEKHA]**

**WRIT PETITION NO.102205 OF 2025 (T-RES)**

**BETWEEN:**

M/S. D. S. ENGINEERING WORKS LIP,  
DOOR NO.66, BYPASS ROAD,  
WARD NO.04, NEAR OPJ CENTRE,  
TORANAGALLU, BALLARI 583123  
R/BY ITS PARTNER  
VEERAPANENI TIRUMALA DURGARAO  
AGED ABOUT 36 YEARS,  
GSTIN 29AAOFD8946NIZD.

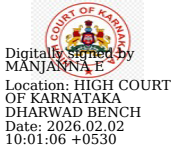
...PETITIONER

(BY SRI. H. R. KAMBIYAVAR, ADVOCATE)

**AND:**

1. THE ASSISTANT COMMISSIONER OF  
COMMERCIAL TAXES (AUDIT)-02  
1<sup>ST</sup> FLOOR, ABOVE UNION BANK,  
NEHARU COLONY, DAM ROAD,  
HOSAPETE-583203
2. THE ASSISTANT COMMISSIONER OF  
COMMERCIAL TAXES (AUDIT)-01  
VANIJA TERIGE BHAVANA  
2<sup>ND</sup> STAGE, 6<sup>TH</sup> MAIN, 2<sup>ND</sup> FLOOR,

MANJANNA  
E





RAGHAVENDRA COLONY,  
BALLARI 583101.

3. THE STATE OF KARNATAKA  
R/BY ITS FINANCE SECRETARY  
VIDHAN SOUDHA,  
BENGALRU-560001.
  
4. THE GOVERNMENT OF INDIA  
MINISTRY OF FINANCE,  
DEPARTMENT OF REVENUE,  
CENTRAL BOARD OF EXCISE AND CUSTOMS  
GST POLICE WING,  
NEW DELHI 110001.

...RESPONDENTS

(BY SRI. PRAVEEN K. UPPAR, AGA FOR R1 TO R3;  
SRI. VENKATESH M. KHARVI, DSG FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE AND STRIKE DOWN SECTION 16(2)(C) OF THE CGST/SGST ACTS AS BEING UNCONSTITUTIONAL, THE SAME BEING VIOLATIVE OF ARTICLES 14 AND 19(1)(g) OF THE CONSTITUTION OF INDIA 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 MRS JUSTICE K.S.HEMALEKHA



**ORAL ORDER**

The petitioner has approached this Court seeking for the following reliefs.

*i. to declare and strike down Section 16 (2) (c) of the CGST/SGST Acts as being unconstitutional, the same being violative of Articles 14 and 19(1)(g) of the Constitution of India.*

*ii. In the alternative, the Petitioner most respectfully prays that this Hon'ble High Court may be pleased to read down the phraseology "has been actually paid" occurring in Section 16 (2) (c) of the CGST/SGST Acts to mean "ought to have been paid".*

*iii. The Petitioner most respectfully prays that this Hon'ble High Court may be pleased to issue a or a direction in the nature of a Writ of Certiorari quashing the impugned Order of adjudication dated 06.08.2024, Bearing No. ACCT(AUDIT)-1/Bly/GST-ADJN/2024-25/T, vide ANNEXURES - "D" passed by Respondent No.2, F. Y. 2019-20, to this writ petition.*

*iv. Issue a Writ of Mandamus or a direction to give benefit under as per the circular no 183/15/2022-GST Issued By the Respondent no 05. vide ANNEXURE - "E".*



*v. This Hon'ble High Court may be pleased to issue such other writ or writs or directions in the nature of a writ as this Hon'ble High Court may deem it fit to grant in the facts and circumstances of the petitioner's case.*

2. At the outset learned counsel appearing for the petitioner submits that, prayer No.1 challenging the constitutional validity of Section 16(2)(c) of the CGST/SGST Acts is not pressed.

3. The said submission is taken on record.

4. Learned counsel for the petitioner draws the attention of this Court to the Circular bearing No.183/15/2022-GST, dated 27.12.2022 (Annexure-F) and contends that the petitioner is entitled to the benefit of the said Circular, which provides a mechanism to rectify error committed in invoices of statutory forms

Reliance is placed on the decision of the Co-ordinate Bench of this Court in ***M/s Wipro Limited India Vs. The Assistant***



***Commissioner of Central Taxes and Others***<sup>1</sup>

("Wipro Limited India' for short), wherein this Court extended the benefit of the said Circular even to the financial year 2019-20 by adopting a justice oriented approach."

5. *Per contra*, learned Additional Government Advocate appearing for the respondents/State in support of the statement of objections filed, submits that Circular bearing No.183/15/2022-GST dated 27.12.2022 applies only for financial year 2017-18 and 2018-19, whereas the Circular bearing No. No.193/05/2023-GST dated 17.07.2023 governs the period from 01.04.2019 to 31.12.2021.

6. It is not in dispute that the petitioner's transaction pertains to the financial year 2019-20. This Court in ***Wipro Limited India***, has held at paragraph Nos.8 and 9 as under:

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<sup>1</sup> *W.P.No.16175 of 2022* dated 06.01.2023



*8. Under these circumstances, I am of the considered opinion that it would be just and proper to dispose of this petition directing the respondents 1 to 3 – revenue to follow the procedure prescribed in the Circular and apply the said Circular to the facts of the instant case of the petitioner, 5th respondent and their transactions for the years 2017-18, 2018-19 and 2019-20. It is also necessary to state that though the Circular refers only to the years 2017-18 and 2018-19, since there are identical errors committed by the petitioner not only in respect of the assessment years 2017-18 and 2018-19 but also in relation to the assessment year 2019-20 also, I am of the view that by adopting a justice oriented approach, the petitioner would be entitled to the benefit of the Circular for the year 2019-20 also. 13*

*9. In the result, I pass the following:-*

**ORDER**

*(i) Petition is hereby disposed of directing the respondents 1 to 3 to take necessary steps in relation to the petitioner and 5th respondent for the assessment years 2017-18, 2018-19 and 2019-20 in terms of the Circular No. bearing No.183/15/2022-GST dated 27.12.2022. (ii) The respondents 1 to 3 are hereby directed to consider the request made by the petitioner vide letter at Annexure-D dated*



*06.09.2021 and proceed further in accordance with law and in terms of the Circular dated 27.12.2022 as expeditiously as possible.*

7. This Court categorically held that where identical error exist across multiple assessment years the benefit of Circular No.183/15/2022-GST cannot be denied merely on the ground that the Circular expressly refers to earlier years, and the same can be extended to the financial year 2019-20 as well.

8. Further, Circular No.193/05/2023-GST, dated 17.07.2023 now expressly covers the period relevant to the petitioner. For the forgoing reasons, writ petition is ***disposed of*** with following directions.

- i. Respondent Nos.1 to 3 are directed to take necessary steps in relation to the petitioner for the assessment year 2019-20 by the Circular bearing No.183/15/2022-GST dated 27.12.2022 as well as Circular bearing No.193/05/2023-GST dated 17.07.2023.



- ii. The impugned order passed by respondent No.2 at Annexure-D is hereby ***quashed.***
- iii. Respondent No.2 is directed to reconsider the matter afresh strictly in accordance with law and the Circulars referred to above.

**Sd/-  
JUSTICE K.S.HEMALEKHA**

EM  
CT:ANB  
List No.: 1 Sl No.: 11