



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF APRIL, 2024

BEFORE

THE HON'BLE MR JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 12025 OF 2024 (T-RES)

BETWEEN:

M/S. BHAWAR LIFE STYLE
NO.91, MODEL HOUSE STREET,
BASAVANAGUDI,
(REP. BY ITS AUTHORIZED
REPRESENTATIVE / PROPRIETORSHIP CONCERN
SR. RAJESH)

...PETITIONER

(BY SRI. SANMATHI E.I., ADVOCATE)

AND:

1. COMMERCIAL TAX OFFICER
(ENFORCEMENT) SOUTH ZONE-CTO-59,
ROOM NO.204, VTK-2, KORAMANGALA,
BENGALURU-560047.
2. THE COMMISSIONER OF COMMERCIAL TAX
GANDHINAGAR, BANGALORE-560009.

...RESPONDENTS

(HCGP FOR RESPONDENTS V/O 25.04.2024)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO i) ASSESSMENT ORDER PASSED BY FIRST RESPONDENT UNDER SECTION 73(9) OF KGST/CGST ACT, 2017 READ WITH THE 142 OF KGST/CGST RULES, 2017 AND SECTION 50(1) OF THE KGST ACT, 2017 BEARING NO. ADCOM/ENF/SZ/CR-23/2022-23 DATED 15/02/2023 FOR FINANCIAL YEAR 2018-19 DATED 31/10/2023 (ANNEXURE-A) AND ETC.

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





ORDER

In this petition, the petitioner seeks for the following reliefs:

"(i) Assessment order passed by first respondent under Section 73(9) of KGST/CGST Act, 2017 read with rule 142 of KGST/CGST Rules, 2017 and section 50(1) of the KGST Act, 2017 bearing No.ADCOM/Enf/SZ/Cr-23/2022-23 dated 15/2/2023 for Financial year 2018-19 dated 31/10/2023 (Annexure-A);

(ii) Bank Attachment notice issued to Bank dated 22/3/2024 bearing No.ADCOM/ENF/SZ/CTO-59/ADJ-1/2023-24, RFN-MA290324020919P (Annexure-E) issued by the first respondent;

(iii) 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. In addition to reiterating the contentions urged in the petition and referring to the material on record, learned counsel for the petitioner invites my attention to the impugned order at Annexure-A dated 31.10.2023 in order to point out that details with



regard to service of notice to the petitioner is not forthcoming in the impugned order. It is submitted that the notices purported to have been issued by the respondents were not received by the petitioner and he was not served with the same and the impugned order without providing sufficient and reasonable opportunity to the petitioner to file his objections and contest the proceedings is violative of principles of natural justice and same deserves to be quashed and the matter is to be remitted back to respondent No.1 for reconsideration afresh in accordance with law.

3. Per contra, learned HCGP for the respondents submits that there is no merit in the petition and same is liable to be dismissed.

4. A perusal of the impugned order would indicate that the details and material particulars with regard to notices purported to have been sent and received by the petitioner, are not forthcoming in the impugned order. On the other hand, a perusal of communication dated 10.04.2024 at Annexure-J produced by the petitioner will indicate that except two notices dated 15.07.2023 and 06.11.2023, there is no record as to issuance of other notices or service of the same upon the petitioner. It is further clear that



the impugned order was passed by respondent No.1 without providing sufficient and reasonable opportunity to the petitioner particularly in light of the specific assertion on the part of the petitioner that his inability and omission to file reply along with the documents to the notices and contest the proceedings was due to bonafide reasons, unavoidable circumstances and sufficient cause. Under these circumstances, in light of the undisputed fact that the impugned assessment order is an exparte order and adopting justice oriented approach, I am of the view that the petitioner is to be provided with one more opportunity to file his reply to the impugned show-cause notices and contest the proceedings and consequently, I deem it just and appropriate to set aside the impugned order and remit the matter back to respondent No.1 for reconsideration afresh in accordance with law.

5. In the result, I pass the following:

ORDER

- (i) Petition is hereby ***allowed***;
- (ii) Impugned Orders at Annexure-A dated 31.10.2023 and Annexure-E dated 22.03.2024 passed by respondent No.1 are hereby set-aside;



- (iii) The matter is remanded back to respondent No.1 for re-consideration afresh in accordance with law;
- (iv) Liberty is reserved in favour of the petitioner to submit replies, documents and etc., to respondent No.1, who shall consider the same and proceed further in accordance with law;
- (v) Petitioner undertakes to appear before respondent No.1 on 13.05.2024 without awaiting further notice.

**Sd/-
JUDGE**