



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18<sup>TH</sup> DAY OF DECEMBER, 2025

BEFORE

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

WRIT PETITION NO. 38051 OF 2025 (T-RES)

**BETWEEN:**

M/S. NL TILE ART PRIVATE LIMITED,  
SURVEY NO. 21/1, BETTADASANAPURA,  
BEGUR -2, BENGALURU - 560 068.  
(REP. BY NAVEEN KUMAR B S,  
AGED ABOUT 43 YEARS,  
S/O B N SRINIVAS,  
DIRECTOR OF PETITIONER COMPANY)

...PETITIONER

(BY SRI RAGHAVENDRA C R, ADVOCATE)

**AND:**

ADDITIONAL COMMISSIONER OF COMMERCIAL TAXES  
(SMR-2),  
8<sup>TH</sup> FLOOR, VTK-1, GANDHINAGAR,  
BANGALORE - 560 009.

...RESPONDENT

(BY SRI K HEMA KUMAR, AGA)



THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO-QUASH THE IMPUGNED REVISIONARY NOTICE BEARING NO. ADCOM(SMR)-2/SMR-14/2025-26 DATED 05.11.2025 ISSUED BY THE RESPONDENT, ENCLOSED AS ANNX-A FOR THE RASONS STATED IN THE GROUNDS ETC.

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

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR



**ORAL ORDER**

1. In this petition, the petitioner seeks the following reliefs:

*"WHEREFORE, the Petitioner prays this Court may be pleased to grant the following reliefs:*

*i). Issue a writ of certiorari or any other writ or direction or order to quash the impugned revisionary notice bearing No. ADCOM (SMR)-2/SMR-14/2025-26 dated 05.11.2025 issued by the Respondent, enclosed as Annexure A, for the reasons stated in the grounds.*

*(ii) To issue order or direction or writ in the nature of mandamus holding that invocation of revisional powers by the Respondent to issue the impugned notice dated 05.11.2025 under Section 108(1) of the CGST/KGST Act against an audit report is incorrect and without authority of law.*

*(iii) Grant such other consequential reliefs, as this Honourable High Court may think fit including refund of amounts already paid with interest and the cost of this writ petition."*

2. Heard learned counsel for the petitioner and learned AGA for respondent and perused the material on record.

3. A perusal of the material on record will indicate that pursuant to the Audit Reports dated 06.12.2022 and 22.02.2023, respondent has proceeded to issue impugned show cause notice purportedly to initiate revision proceedings under Section 108 of KGST/CGST



Act, 2017, purporting to revise the Audit report dated 22.02.2023 which is impermissible in law in the light of the judgment of this Court, in the case of **M/S. NAVAYUGA ENGINEERING COMPANY LIMITED VS. JOINT COMMISSIONER OF COMMERCIAL TAXES (DD 18.11.2025)**, wherein, it is held as under:

*ORAL ORDER*

*"In this petition, petitioner seeks the following reliefs:*

*(a) To issue order(s), directions, writ(s) in the nature of Certiorari or any other writ quashing the Impugned Order in Revision bearing No. JCCT(ADMN)/DGSTO-6/GST/SMR-03/2025-26 dated 14.05.2025 passed by the Respondent is enclosed at Annexure-A as being without jurisdiction;*

*(b) To issue order(s), directions, writ(s) in the nature of mandamus or any other writ holding that the provisions of Section 15(2) of the CGST Act to determine the value of supply is inapplicable to the facts and of the present case;*

*(c) To issue order(s), directions, writ(s) in the nature of mandamus holding that invocation of revisional powers by the Respondent to pass the Impugned Order under Section 108(1) of the CGST Act against an Audit Report is incorrect and without Authority of law;*

*(d) To issue order(s), directions, writ(s) in the nature of certiorari or any other writ holding that the interest Section 50*



*of the CGST/SGST Act, 2017 and penalty under Section 73(9) of CGST/SGST Act, 2017 is not leviable;*

*(e) To issue order(s), directions, writ(s) or any other relief as this Hon'ble Court deems it fit and proper in the facts and circumstance of the case in the interest of justice;"*

*2. Heard learned Senior Counsel for the petitioner and learned counsel for the respondent and perused the material on record.*

*3. In addition to reiterating the various contentions urged in the memorandum of petition and referring to the material on record, learned Senior Counsel for the petitioner invited my attention to the Revised Audit Observation dated 17.11.2023, to which petitioner submitted a reply dated 24.11.2023, which culminated in an Audit Report dated 15.12.2023 in Form GST No.CTO/Audit-6.1/DGSTO-6/23-24 dated 15.12.2023 in Form GST ADT-02. It is submitted that after having issued the aforesaid Audit Report dated 15.12.2023 in favour of the petitioner, the respondent was not entitled to initiate **Revision Proceedings under Section 108 of the KGST Act by issuing notice dated 19.10.2024 especially when no proceedings under Section 73 or Section 74 of the KGST Act, was initiated by the respondent prior to initiating the revision proceedings or subsequently and as such, the impugned revision proceedings including the impugned order passed by the Revisional Authority deserves to be quashed.***

*4. Per contra, learned AGA for the respondents on instructions submits that there is no merit in the petition and that the same is liable to be dismissed. He however would not dispute the fact that proceedings under Section 73 or Section 74 of the KGST Act had*



*not been initiated by the respondent as on date and liberty may be reserved in favour of the respondent to initiate such proceedings as permissible in law.*

*5. The aforesaid facts and circumstances clearly indicate that as on the date of initiating revisional proceedings by issuance of the revision notice dated 19.10.2024, respondent had not initiated proceedings under Section 73 or Section 74 of the KGST Act. In this context, it is relevant to extract Section 65(7) of the KGST Act, which reads as under:*

*"Section 65(7) of the Kerala Goods and Services Tax (KGST) Act, 2017, states that if an audit conducted by the tax authorities detects any instances of **unpaid or short-paid tax, erroneously refunded tax, or input tax credit wrongly availed or utilized**, the proper officer can initiate action under Section 73 or Section 74 of the Act."*

*6. A plain reading of the aforesaid provision will clearly indicate that upon coming to know about issuance of the Audit Report, it is incumbent upon the respondent to initiate proceedings action under Section 73 or Section 74 of the KGST Act and without doing so, it is impermissible in law for the respondent to initiate revisional proceedings, which is contrary not only to the aforesaid provision but also the other material on record especially having regard to the fact that no proceedings have been initiated under Section 73 or Section 74 of the KGST Act even till today.*

*7. Under these circumstances, I am of the considered opinion that the impugned proceedings including the impugned order are illegal, arbitrary and without authority of law and the same deserves to be quashed.*



8. *In the result, I pass the following:*

*ORDER*

- (1) The petition is hereby allowed.*
- (ii) The impugned order in Revision at Annexure - A dated 14.05.2025 passed by the respondent is hereby quashed.*
- (iii) Liberty is however reserved in favour of the respondent to initiate proceedings against the petitioner in accordance with law subject to all just exceptions and limitations as permissible in law."*

4. In view of the aforesaid facts and circumstances and the judgment of this Court in **M/S. NAVAYUGA ENGINEERING COMPANY LIMITED** (referred supra), I deem it just and appropriate to quash the impugned show cause notice by granting liberty in favour of the respondent.

5. Insofar as the contentions of the respondent that petition is premature since the proceedings are at the stage of issuance of show cause notice under Section 108 of KGST Act, for the purpose of initiating revision proceedings is concerned, having regard to the provisions contained under Section 65 (7) of KGST Act, 2017 and the judgment of this Court in **M/S. NAVAYUGA ENGINEERING COMPANY LIMITED** (referred supra), it is clear that Section 108



of the Act cannot be invoked and cannot be applicable to initiate revision proceedings purporting to revise an audit observation report which is impermissible in law and without jurisdiction of the authority of law and consequently, the very issuance of the show cause notice being without jurisdiction of authority of law, mere availability of remedy by way of submitting reply to the show cause notice would not come in the way of this Court exercising under Article 226 in the light of the several judgments of the Apex Court and this Court, including the case of **RADHA KRISHAN INDUSTRIES VS. STATE OF HIMACHAL PRADESH REPORTED IN Taxman (2021) 127 ATAXMANN.COM.26 (SC)**. Under these circumstances, the said contentions urged by the respondent cannot be accepted.

6. In the result, I pass the following:

ORDER

- (i) Petition is hereby **allowed**;
- (ii) The impugned Notice bearing No.ADCOM(SMR)-2/SMR-14/2025-26 at Annexure - A dated 05.11.2025 passed by the respondent is hereby quashed.



(iii) Liberty is however reserved in favour of the respondent to initiate proceedings against the petitioner in accordance with law subject to all just exceptions and limitations as permissible in law."

**Sd/-  
(S.R.KRISHNA KUMAR)  
JUDGE**

tsn\*  
List No.: 2 SI No.: 11