



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

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

WRIT APPEAL NO. 718 OF 2025 (T-RES)

BETWEEN:

1. STATE OF KARNATAKA
FINANCE DEPARTMENT
II FLOOR, VIDHANA SOUDHA
BENGALURU - 560001
REPRESENTED BY ITS
ADDITIONAL CHIEF SECRETARY
2. COMMISSIONER OF COMMERCIAL TAXES
GOVERNMENT OF KARNATAKA
VANIJYA THERIGE KARYALAYA
1ST MAIN ROAD, GANDHINAGAR
BENGALURU - 560009
3. DEPUTY COMMISSIONER OF
COMMERCIAL TAX (AUDIT)-5.7
DEPARTMENT OF COMMERCIAL TAXES
6TH FLOOR, B BLOCK
VIVEKANAGAR POST,
KORAMANGALA
BENGALURU - 560047

...APPELLANTS

(BY SRI ADITYA VIKRAM BHAT, AGA)



AND:

1. M/S SUDHANVA ENGINEERS AND BUILDERS
A SOLE PROPRIETORSHIP
HAVING ITS REGISTERED OFFICE AT NO.1298
13TH MAIN, 5TH A CROSS
JUDICIAL LAYOUT, YELAHANKA
BENGALURU - 560064
REPRESENTED BY PROPRIETOR
SRI SUDHANVA S
2. KARNATAKA URBAN WATER SUPPLY
AND DRAINAGE BOARD
OPERATION AND MAINTENANCE DIVISION
SHIVAMOGGA - 577201
REPRESENTED BY ITS
MANAGING DIRECTOR
3. EXECUTIVE ENGINEER
OPERATION AND MAINTENANCE DIVISION
KARNATAKA URBAN WATER SUPPLY AND
DRAINAGE BOARD
SHIVAMOGGA - 577201
4. M/S JAIHIND PROJECTS LTD
A COMPANY REGISTERED UNDER
THE COMPANIES ACT, 1956
3RD FLOOR, VENUS ATLANTIS CORPORATE PARK
NEAR PRAHLADNAGAR
AUDA GARDEN ANANDNAGAR ROAD
SATELLITE AHMEDABAD - 380015
5. M/S P.C. SNEHAL CONSTRUCTION CO
A COMPANY REGISTERED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE AT
9TH FLOOR CITY CENTER



C G ROAD, NAVRANGPURA
AHMEDABAD - 380009
REPRESENTED BY ITS DIRECTOR

...RESPONDENTS

(BY SRI S.S NAGANAND, SENIOR ADVOCATE
SRI SIDHARTH SRIKANTH, ADVOCATE
FOR MR. NAGESH MORO, ADVOCATE FOR R-1;
MS. MONISHA N.S., ADVOCATE FOR R-2 & R-3;
V/O DATED 09.12.2025, NOTICE TO R-4 IS DISPENSED WITH;
SRI VARUN S., ADVOCATE FOR R-5)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
JUDGEMENT DATED 25.04.2024 PASSED BY THE LEARNED
SINGLE JUDGE OF THIS HON'BLE COURT IN WRIT PETITION No.
3196/2024 (T-RES) & ETC.

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING,
THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellants have filed the present appeal impugning an order dated 25.04.2024, passed by the learned Single Judge of this Court in W.P.No.2911/2024 (T-RES) clubbed with W.P.No.3196/2024 (T-RES). The present appeal arises from W.P.No.3196/2024. Respondent No.1 [**writ petitioner**] had filed the said writ petition, *inter alia*, praying as under:



"i. Direct Respondent No. 2 to make payment of Rs. 1,80,73,798/- (Rupees One Crore, Eighty lakhs, Seventy-three thousand, seven hundred and ninety-eight only) along with interest at the rate of 18% per annum, and penalty at the rate of 10% per annum, towards the GST dues of The Petitioner for FY 2018-19, directly to Respondent No. 5; or

In the alternative, direct Respondent No. 2 to make payment of a sum of RS. 1,80,73,798 (Rupees Once crore, Eighty lakhs, Seventy-three thousand, Seven hundred and Ninety-Eightonly) along with interest at the rate of 18% per annum, and penalty at the rate of 10% per annum, to the Petitioner;

ii. Direct Respondent No. 2 to make payment of a sum of Rs. 1,28,02,166 (Rupees One Crore, Twenty-eight lakhs, two thousand, one hundred and sixty-six only) Rs. 1,15,43,196/- for FY 2019-20 and Rs. 12,58,970/- for FY 2020-21), along with interest at the rate of 18% per annum, and penalty at the rate of 10% per annum, to the Petitioner;

iii. Direct Respondent No. 2 to make payment of the sum of Rs. 1,71,63,854/- (Rupees One crore, Seventy-one lakhs, Sixty-three thousand, Eight hundred and fifty-four only along with interest at the rate of 18%, and penalty at the rate of 10%, for the FY 2017-18, to the Petitioner;

iv. Restrain Respondent No. 5 from proceeding against the Petitioner on the basis of the show cause notice dated 06.11.2023 bearing No.DCCT(A)-5.7/DGSTO-5/ADJU/2023-24(Annexure-P), and the Demand Order dated 21.12.2023 bearing No. DCCT(A)-5.7/DGSTO-5/ADJU/No. 74/2023-24(Annexure-Q), till the payment of the due amount by Respondent No. 2;

v. Award costs of the proceedings;

vi. Grant any such relief as this Hon'ble Court deems fit under the facts and circumstances of this case, in the interest of justice and equity."



2. The writ petitioner states that it was registered under the Karnataka Value Added Tax (KVAT), 2003 and had obtained GST registration on 15.09.2020, after the rollout of the Goods and Services Tax [**GST**] regime with effect from 01.07.2017.

3. Respondent No.2, the Karnataka Urban Water Supply and Drainage Board [**Board**], had invited tenders for the execution of the following works:

"Part I: Replacement of existing CI/AC/PVC old pipelines with. MS/DI pipelines from RM 1 to 6, construction of 11 os. of RCC shaft type OHTs with connecting MS/DI Rising Mains, Dismantling of existing 2 Nos. of 10 LL capacity OHTs. and construction of GLSR, pump house for IPS;

Part II: Supply, Erection, Electrification and Commissioning of 2 Nos. of 150 HP or suitable HP for RM-1, and 2 Nos. of 300 HP or suitable HP pumpsets by replacing the existing pumping machinery for RM-3 and RM-6 (combined) and 75 HP at IPS, LBS Nagar."

4. The writ petitioner entered into a Joint Venture Agreement dated 06.01.2017 with M/s. Jaihind Projects Limited and M/s. P.C. Snehal Construction Private Limited. The said consortium [**Joint Venture**] submitted its bid for executing the works for consideration of ₹42,22,31,493.21/-. The writ petitioner claimed that in terms of the instructions to the tenderers, the tender prices were exclusive for excise duty and customs duty. It claimed that the bid price only



included Value Added Tax [**VAT**], which was computed at 4% of the taxable turnover. The writ petitioner claimed that it understood that the project works would be exempt from duties and taxes.

5. Clause 39 of Section 5 (Conditions of Contract) provided that the rates quoted by the writ petitioner were deemed to be inclusive of sales tax and all other taxes payable by the contractor.

6. The Board accepted the bid submitted by the Joint Venture (joint venture of three entities, including the writ petitioner) and issued a letter of acceptance dated 17.02.2017. Thereafter, the Board executed a formal agreement dated 08.03.2017 [**the Agreement**] whereby the Joint Venture was awarded the contract for execution of the works at a contract price of ₹40,17,61,572.70/-. The Board issued the notice to proceed with the work on 08.03.2017.

7. The writ petitioner claimed that it had requested the Board to issue an Excise Duty Exemption certificate, but before the said certificate could be issued, the Goods and Services Tax Act, 2017, was enacted. Consequently, the tax exemptions previously granted were no longer applicable. The writ petitioner claimed that the



constituents of the Joint Venture executed a Memorandum of Understanding dated 30.08.2017 [MOU], whereby the writ petitioner was authorised to carry out the project work. It is also agreed that the writ petitioner and its proprietor would represent the Joint Venture for obtaining all statutory licenses and registrations.

8. The writ petitioner claimed that it had to bear the additional burden of paying GST at the rate of 12% since the execution of the works began after the rollout of the GST regime with effect from 01.07.2017.

9. In this context, the writ petitioner sent representations dated 18.07.2017 and 28.02.2018 seeking reimbursement of the GST component as it was not included in the contract price.

10. By a letter dated 07.05.2018, the writ petitioner called upon the Board to reimburse a minimum amount of ₹2,69,00,000/-. However, the Board did not pay the said amount. Thereafter, appellant No.3, which was arrayed as respondent No.5 in the writ petition, commenced proceedings for recovery of GST dues for the Financial Year 2018-2019. First, it issued an intimation under Section 65(6) of the Karnataka Goods and Services Tax Act, 2017,



alleging that the writ petitioner had defaulted in payment of its GST liability as it was liable to pay tax at the rate of 18% (9% towards GST and 9% towards SGST) on its taxable turnover.

11. The writ petitioner responded to the said observations and also issued a letter dated 27.10.2023 to the Board requesting for release ₹3,08,75,964/- towards reimbursement of the GST component (₹1,80,73,798/- for the Financial Year 2018-2019, ₹1,12,43,196/- for Financial Year 2019-2020, and ₹12,58,970/- for Financial Year 2020-21) in order to enable it to discharge its GST liability. The writ petitioner claimed that it also sent a letter dated 08.11.2023 requesting the Board to release a sum of ₹1,71,63,854/- towards GST payments for the Financial Year 2017-18.

12. In the meantime, the GST Authorities issued a show-cause notice dated 06.11.2023 under Section 73(1) of the KGST Act, which the writ petitioner responded to on 05.12.2023.

13. The proceedings initiated by the GST Authorities culminated in a demand order dated 21.12.2023 issued under Section 73(9) of the KGST Act for recovery of a sum of ₹2,42,68,900/- along with



interest at the rate of 18% per annum and penalty at the rate of 10% of the principal liability. Cumulatively, an amount of ₹4,84,76,038/- was demanded.

14. In view of the aforesaid demand, the writ petitioner once again sent a letter dated 04.01.2024 to the Board calling upon it to make a payment of ₹2,42,68,899.72/- along with interest and penalty in order to enable it to discharge its GST liability. The Board did not pay the amount as demanded. In the aforesaid backdrop, the writ petitioner filed a writ petition (W.P.No.3196/2024).

15. The writ petition was allowed by the impugned order. The operative part of the impugned order reads as under:

"(i) Petitions are hereby allowed and disposed of in terms of the order passed in **Sri Chandrashekaraiah and others Vs. The State of Karnataka and others – WP No.9721/2019 and connected matters dated 11.04.2023.**

(ii) Respondent Nos.1 and 2 are hereby directed to pay the GST dues of the petitioner, including interest at the rate of 18% and penalty at the rate of 10%, levied as per the demand order dated 21.12.2023 for the FY 2017-18, FY 2018-19, FY 2019-20 and FY 2020-21 as and where applicable to respondent Nos.3 to 5 – State after due verification and in accordance with law.



(iii) Liberty is reserved in favour of the petitioner to submit fresh / new representation along with calculation to the respondents, who shall consider the same and proceed further in terms of the directions issued in this order."

16. As is apparent from the above, the writ petition was allowed following the earlier decision in the case of **Sri. Chandrashekaraiah and others V. The State of Karnataka¹**.

It is thus relevant to refer to the operative part of the decision in **Sri. Chandrashekaraiah (supra)**. The same is set out below:

"20. In the result, I pass the following:-

ORDER

- (i) Petitions are hereby disposed of.
- (ii) The Respondents-State and other Govt agencies / Respondents who have entered into works contract with the Petitioners are issued the following directions / guidelines:-
 - (a) Calculate the works executed pre-GST (prior to 01.07.2017) under KVAT regime and payments received by the Petitioners.
 - (b) The payments received by the Petitioners pre-GST for such of the works executed before 01.07.2017 are to be assessed under KVAT tax regime – either under COT or VAT scheme as applicable.
 - (c) Calculate the balance works to be completed or completed after 01.07.2017, in the original contract.
 - (d) Derive the rate of materials, KVAT items required or used to complete the balance works.

¹NC: 2023:KHC:15431



- (e) Deduct the "KVAT" amount from those materials and the service tax, if applicable.
- (f) Add the applicable "GST" on those items.
- (g) Input Credit on the materials is to be arrived at and be set off as against the output GST, for those assessed under regular VAT.
- (h) Further, the "tax difference" should be calculated on such balance works executed or to be executed after 01.07.2017 separately.
- (i) Based on the result obtained on calculation of the tax difference on the contract value, concerned department/authority has to decide whether agreement needs to be changed or not.
- (j) A supplementary agreement may be signed with the Petitioners for the revised GST-inclusive work value for the Balance Work completed or to be completed as determined above and in case the revised GST-inclusive work value for the Balance Work, completed or to be completed after 01.07.2017, is more than the original agreement work value, the Petitioners are to be paid /reimbursed, as the case may be, the differential tax amount by the concerned employer; so also, in case payments for works completed pre-GST are made post GST, the concerned employer has to pay or reimburse, as the case may be, the differential tax amount, to the Petitioners.
- (iii) Petitioners are directed to submit comprehensive representations to the respective employers/Respondents within a period of 4 weeks from the date of receipt of a copy of this order, irrespective of whether they have completed the works pre-GST or post-GST or payments were received or yet to be received post-GST.
- (iv) If such representations are submitted, the respective employers/Respondents are directed to consider and dispose of the same in the light of the aforesaid directions / guidelines as expeditiously as possible and at any rate within a period of 8 weeks from the date of submission of the representations.



(v) In view of the interim orders passed by this Court in the present petitions, such of the petitioners who had not filed their GST returns during the period after 01.07.2017 are permitted to file their returns / amended returns, pursuant to the calculation of the differential tax as per procedure above under GST regime, without insisting on interest or penalty or limitation.

(vi) The GST authorities are also directed not to take precipitative action against the Petitioners for a period of 6 months from the date of receipt of a copy of this order.

(vii) Liberty is reserved in favour of the petitioners to challenge any order / decision passed / taken by the respondents or the authorities, subsequent to this order and also take recourse to such remedies as available in law."

17. The learned counsel appearing for the appellants has confined the challenge to the impugned order on two fronts. First, it is submitted that the operative part of the order seeks to incorporate the directions issued in the case of **Sri. Chandrashekaraiah** (*supra*), which also includes a direction enabling the writ petitioner to file GST returns/amended returns for the period after 01.07.2017 by calculating the differential tax in a manner as set out in the said order. Further, the interest and penalty have been waived, and the limitation period has also been relaxed. Second, it is submitted that appellant No.1 is not liable to reimburse any amount to the writ petitioners, and the direction to



the concerned respondents to do so must be read as confined to the Board (Employer).

18. The dispute as to whether the writ petitioner is entitled to reimbursement of incremental tax paid or payable by them on account of the levy of GST is strictly a matter between the writ petitioner and the concerned Employer with whom it had entered into a contract. The contract between the writ petitioner and the Employer would not alter the statutory scheme for the levy of GST. Thus, the liability of the writ petitioner to pay Goods and Services Tax whether under the Central Goods and Services Tax Act, 2017, State Goods and Services Tax Act, 2017 or the Integrated Goods and Services Tax Act, 2017, is required to be determined strictly in accordance with the provisions of the relevant statute. The question of the levy of GST, assessment, recovery, and enforcement is a matter of statutory prescription and cannot be altered by a contract.

19. In view of the above, no directions could be issued permitting the filing of any revised returns contrary to the provisions of the statute. The plenary directions to waive the penalty, interest under



the GST Acts or relax the limitation period for filing returns/revised returns are also unsustainable.

20. In the aforesaid view, the direction issued to the respondents to reimburse the tax is required to be construed as a direction only to the concerned Employer and not to the tax authorities.

21. The impugned order, to the extent of the directions issued to the tax authorities/State, is set aside.

22. The appeal is disposed of in the aforesaid terms.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(K.S. HEMALEKHA)
JUDGE**

KPS
List No.: 2 SI No.: 0