

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF SEPTEMBER, 2020

BEFORE

THE HON'BLE MR.JUSTICE S.G.PANDIT

WRIT PETITION.NO.9425 OF 2020 (T-RES)

BETWEEN:

M/S. GEORGE CLINICAL INDIA PRIVATE LIMITED,
A COMPANY INCORPORATED UNDER
THE COMPANIES ACT, 1956
HAVING ITS REGISTERED OFFICE AT:
12TH FLOOR, PRESTIGE KHODAY TOWERS,
PLOT NO.5, RAJ BHAVAN ROAD,
BANGALORE-560 001.

REPRESENTED BY ITS DIRECTOR,
SHRI.GANESH PANDURANGA PAI.

... PETITIONER

(BY SRI. S. SRIRANGA, ADVOCATE)

AND:

1. UNION OF INDIA
MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE,
GOVERNMENT OF INDIA,
NORTH BLOCK,
NEW DELHI-110 001
THROUGH THE SECRETARY.
2. THE DEPUTY COMMISSIONER OF CENTRAL TAX
NORTH DIVISION-I,
GST COMMISSIONERATE,

NO.29/2, CRESCENT ROAD,
3RD FLOOR,
BASAVARWARA BUILDING,
BENGALURU-560 001.

3. THE ASSISTANT COMMISSIONER OF CENTRAL TAX
NORTH DIVISION-I,
BANGALORE NORTH COMMISSIONERATE,
NO.29/2, CRESCENT ROAD,
3RD FLOOR,
BASAVARWARA BUILDING,
BENGLURU-560 001.
4. COMMISSIONER OF CENTRAL TAX
BENGALURU NORTH COMMISSIONERATE,
HMT BHAVAN,
GANGA NAGAR,
BENGALURU-560 032.

... RESPONDENTS

(BY SRI. JEEVAN J.NEERALGI, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES
226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO
QUASH THE ORDER DATED 16.03.2020 PASSED BY THE
COMMISSIONER OF CENTRAL TAX (APPEAL-II) IN
ANNEXURE-AG AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS
THIS DAY, THROUGH VIDEO CONFERENCE, THE COURT
MADE THE FOLLOWING:

ORDER

The petitioner is before this Court under Article 226 of the Constitution of India, praying for writ of certiorari to quash the order dated 16.03.2020 passed by the Commissioner of Central Tax (Appeals-II) in GST A.No.19-24/2019-20 A-II ADC No.39-44/ADC/AII/GST/2020 dated 06.03.2020, Annexure-'AG' to the writ petition as well as to quash show cause notice dated 04.06.2020 bearing No.C.No.IV/09/09/2019-20 ND-1 DIN: 20200657YW00009X3D76 which is at Annexure-'AH' and for other reliefs.

2. Sri. Jeevan.J.Neeralgi, learned counsel has taken notice for respondent Nos.1 to 4 and has entered appearance.

3. Heard both the learned counsels for the petitioner and respondents through video conference.

4. Sri. Jeevan.J.Neeralgi, learned counsel for the respondents submits that he has filed a memo dated 10.09.2020 enclosing clarification circular dated 18.03.2020 and points out Clause No.4.2 therein. Further, learned counsel submits that Annexure-'AG' is an appealable order under the Central Goods and Services Act, 2017 (for short 'CGST Act'). It is further submitted that Annexure-'AH' is only a show cause notice to which the petitioner has to submit his reply and thereafter the Authorities have to adjudicate the issue and pass orders in accordance with law.

5. Learned counsel for the petitioner would submit that the show cause notice includes the demand arising out of Annexure-'AG' dated 06.03.2020 also for the previous period from July-2017 to April-2018. Further he submits that there is no order directing the petitioner to file an appeal in respect of demand from July-2017 to April-2018. As such, the same could not

have been included in the show cause notice, hence the same requires to be interfered with.

6. Having heard the learned counsels for the parties and on perusal of the material placed on record, I am of the view that insofar as Annexure-'AG' dated 06.03.2020 is concerned, the petitioner to file appeal as provided under Section 112 of the CGST Act. The clarification circular produced along with memo dated 10.09.2020 provides for filing of appeal within three months from the date of constitution of the Tribunal or the date on which the President enters office. As on this date, the Tribunal has not been constituted. Thus, the petitioner is directed to file an appeal against the impugned order bearing No.GST A.No.19-24/2019-20 A-II ADC No.39-44/ADC/AII/GST/2020 dated 06.03.2020, Annexure-'AG' within three months from the date of

constitution of the Tribunal or within three months from the date of President enters office.

7. Annexure-'AH' dated 04.06.2020 is a show cause notice. The petitioner to reply to the said show cause notice bringing to their notice discrepancy therein as noted above. The said reply shall be filed within two weeks. Thereafter, the Adjudicating Authority shall consider the objection filed if any, adjudicate the issue in question and pass orders in accordance with law. No precipitative action shall be taken by the respondents in pursuance to **Annexure-'AG' dated 06-03-2020 and Annexure-'AH' dated 04.06.2020* till Adjudicating Authority passes an order.

With the above observation, the writ petition is disposed off.

**Sd/-
JUDGE**

SMJ