



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

DATED THIS THE 14TH DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 102342 OF 2024 (T-RES)

BETWEEN:

YURAJ ENTERPRISE
V.P.C. 410, AT POST: KOUJAGERI,
BAZAR ROAD,
TK. RON,
DIST. GADAG- 582202,
REP. BY ITS PROP.
SHRI. SHARANAPPA S/O. BASAPPA KUMBAR,
AGED ABOUT 39 YEARS,
GSTIN: 29EUIPK6371L2ZU.

...PETITIONER

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

AND:

1. THE ASSISTANT COMMISSIONER
OF COMMERCIAL TAXES,
(LGSTO 350),
GADAG- 582101.
2. THE UNION OF INDIA,
REPRESENTED BY ITS
FINANCE SECRETARY,
MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE,
NEW DELHI- 110001.
3. THE STATE OF KARNATAKA,
REPRESENTED BY ITS
FINANCE SECRETARY,



VIDHANA SOUDHA,
BENGALURU- 560001.

4. THE COMMISSIONER OF
COMMERCIAL TAXES OF KARNATAKA,
VANIJYA THERIGE KARYALAYA,
1ST MAIN, GANDHINAGAR,
BENGALURU- 560009.
5. GOVERNMENT OF INDIA
THE GST COUNCIL,
THROUGH ITS CHAIRPERSON,
MINISTRY OF FINANCE,
NORTH BLOCK,
GST POLICY WING,
NEW DELHI- 110001.

...RESPONDENTS

(BY SRI SHARAD V. MAGADUM, AGA FOR R1, R3, R4,
SRI VENKATESH KHARVI, ADVOCATE FOR R2,
SRI M. B. KANAVI, ADVOCATE FOR R2,
SRI SHIVARAJ S. BALLOLI, ADVOCATE FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA IS PRAYING TO WHEREFORE, THE PETITIONER MOST RESPECTFULLY PRAYS THAT THIS HON'BLE HIGH COURT MAY BE PLEASED 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. I. 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". II. THE PETITIONER MOST RESPECTFULLY PRAYS THAT THIS HON'BLE HIGH COURT MAY BE PLEASED TO ISSUE A WRIT OF CERTIORARI OR A DIRECTION IN THE NATURE OF A WRIT OF CERTIORARI QUASHING THE IMPUGNED ORDER BEARING NO. ACCT(/LGSTO-350/ORDER-73/2023-24 TAX PERIOD 2018-19, DATED 18/07/2023, PASSED BY THE FIRST RESPONDENT UNDER THE PROVISIONS OF THE CGST/SGST/IGST ACTS FOR



THE TAX PERIODS FROM 2018-19, VIDE (ANNEXURE-'B') TO THIS WRIT PETITION. III. THE PETITIONER MOST RESPECTFULLY PRAYS THAT THIS HON'BLE HIGH COURT MAY BE PLEASED TO ISSUE A WRIT OF CERTIORARI OR A DIRECTION IN THE NATURE OF A WRIT OF CERTIORARI QUASHING THE SUMMARY OF THE ORDER DATED 9/07/2023, IN FORM R.NO.ZD2907230195480, GST-DRC-07, PASSED BY THE FIRST RESPONDENT NO.1 VIDE ANNEXURE C TO THIS WRIT PETITION. IV. 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 PETITIONERS CASE.

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

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE M.NAGAPRASANNA)

The petitioner seeks to withdraw the petition and a memo that effect is filed.

Memo reads as under:

"Advocate for petitioner most respectfully prays that, in the top notes case the petitioner has challenged the Constitutional Validity of Section 16(4) of Central Goods and Service Tax Act, 2017 ('CGST Act' for brevity) and also Karnataka Goods and Service Tax Act, 2017 ('KGST Act' for brevity) r/w Rule 61(5) and also questioned the notices and orders issued under the aforementioned Acts and Rules. However, the learned Single Judge was pleased to disposed of on 14/02/2025 and order on I.A.no.1/2024 dated 14/02/0025, in the top said case with liberty to avail



*such remedy as provided under the both the Acts and further observed that, nothing is expressed on merits of the claim. **Wherefore,** the Petitioner most humbly pray this Hon'ble Court that, the top said case may kindly permit to withdraw the Petition with liberty to avail the benefit of recent amendments and Government amnesty schemes, in the interest and Justice and equity."*

Petition stands disposed as withdrawn in terms of the memo.

**SD/-
(M.NAGAPRASANNA)
JUDGE**

Naa
List No.: 1 Sl No.: 135
CT. GTB