



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

DATED THIS THE 12TH DAY OF DECEMBER, 2024

**BEFORE
THE HON'BLE MR. JUSTICE C.M. POONACHA**

WRIT PETITION NO.108042 OF 2023 (T-RES)

BETWEEN:

M/S YAMANAPPA V PATROT,
WARD NO.19, CHOUDAYA NAGAR,
JAMAKHANDI - 587 301,
GSTIN 29AJZPP332N1ZW.

...PETITIONER

(BY SRI H. R. KAMBIYAVAR AND
SMT. PATRI SHASHIKALA, ADVOCATES)

AND:

1. THE ASSISTANT COMMISSIONER
OF COMMERCIAL TAXES, LGSTO - 430,
JAMAKHANDI DIST - 587 301.
2. THE STATE OF KARNATAKA,
REP. BY THE PRINCIPAL SECRETARY,
FINANCE DEPARTMENT,
GOVERNMENT OF KARNATAKA,
BENGALURU - 560 001.
3. GOVERNMENT OF INDIA,
THROUGH ITS SECRETARY, (REVENUE)
MINISTRY OF FINANCE,
DEPARTMENT OF REVENUE,
NORTH BLOCK, NEW DELHI - 110 001.
4. THE GST COUNCIL,
THROUGH ITS CHAIRPERSON,
MINISTRY OF FINANCE, NORTH BLOCK,
NEW DELHI - 110 001.

...RESPONDENTS



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO, ISSUE A WRIT OF DECLARATION OR ANY OTHER APPROPRIATE WRIT OR DIRECTION DECLARING THE PREVISIONS OF SECTION 16(4) OF CGST/SGST ACT, 2017 R/W RULE 61 OF KGST RULES ENCLOSED VIDE ANNEXURE - E BEING ILLEGAL, UNREASONABLE, ARBITRARY AND DISCRIMINATORY AND THEREFORE TO BE STRUCK DOWN AS VIOLATIVE OF ARTICLE 14, 19 AND 300A OF THE CONSTITUTION OF INDIA. IN THE ALTERNATIVE, THIS HON'BLE COURT MAY TO READ DOWN THE SAID WORDINGS CONTAINED IN SECTION 16(4) OF CGST/SGST ACT, 2017 R/W RULE 61 OF KGST RULES, VIDE ANNEXURE - E SO AS TO INTERPRET THE TIME LIMIT FOR TAKING INPUT TAX CREDIT AS PROCEDURAL AND DIRECTORY IN NATURE; ISSUE A WRIT OF DECLARATION OR CERTIORARI ANY OTHER APPROPRIATE WRIT OR DIRECTION DECLARING THE PREVISIONS OF RULE 61(5) OF CGST/SGST RULES, 2017 VIDE ANNEXURE - H, NOTIFICATION NO.49/2019 CENTRAL TAX DISCRIMINATORY AND THEREFORE TO BE STRUCK DOWN AS VIOLATIVE OF ARTICLE 14 AND/OR 19 OF THE CONSTITUTION OF INDIA. ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR QUASH A IMPUGNED THE RESPONDENT NO.1 HAS PASSED AN IMPUGNED ADJUDICATION ORDER U/S 73(9) FOR THE F.Y.2019-20 BEARING NO.ACCT/LGSTO-430/JKD/ADJ/S.73/2023-24/B-929 DATED 21.08.2023, (VIDE ANNEXURE-M), AS VIOLATIVE OF ARTICLES 14,19,265 AND 300A BEING UNREASONABLE, ARBITRARY, OPPRESSIVE, EXCESSIVE AND PREMEDITATED; ISSUE A WRIT OR CERTIORARI OR ANY OTHER APPROPRIATE WRIT OR QUASH A IMPUGNED THE RESPONDENT NO.1 HAS PASSED AN IMPUGNED PREINTIMATION NOTICE FOR THE F.Y.2017-18 BEARING NO.CTO/LGSTO-430/JKD/DRC-01A/2023-24/B-1257 DATED 15.09.2023 VIDE ANNEXURE N), AS VIOLATIVE OF ARTICLES 14, 19,



265 AND 300A BEING UNREASONABLE ARBITRARY, OPPRESSIVE, EXCESSIVE AND PREMEDITATED AND etc.,

THIS WRIT PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE C.M. POONACHA

ORAL ORDER

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

Learned counsel for petitioner has filed a memo for withdrawal of the petition, which reads as under:

"MEMO FOR WITHDRAWAL

Advocate for petitioner most respectfully prays that, in the top noted 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/q Rule 61(5) and also questioned the notices and orders issued under the aforementioned Act and Rules. However, the petitioner inclined to avail the benefit of recent amendments to the above said section and the Government has announced amnesty scheme to the tax payers. 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 of justice and equity.

In view of the memo, the present writ petition is dismissed as withdrawn.

Liberty is reserved to the petitioner to avail the benefit as sought for in the memo.

**Sd/-
(C.M. POONACHA)
JUDGE**

YAN/CT-ASC
List No.: 1 Sl No.: 36