

Ibc Knowledge Park (P) Ltd vs the Union of India

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Court : Karnataka

Decided On : Apr-17-2025

Judge : S.R.Krishna Kumar

Appeal No. : WP/13355/2024

Appellant : Ibc Knowledge Park (P) Ltd

Respondent : The Union of India

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF APRIL, 2025 BEFORE THE HON'BLE MR JUSTICE S.R.KRISHNA KUMAR WRIT PETITION NO. 13355 OF 2024 (T-RES) BETWEEN: IBC KNOWLEDGE PARK (P) LTD REPRESENTED HEREIN BY ITS DIRECTOR MR KHALID MOHSIN AGED ABOUT 53 YEARS S/O MOHSIN SHARIFF ADDRESS AT 9TH FLOOR, PENT HOUSE TOWER B, DIAMOND DISTRICT HAL OLD AIRPORT ROAD KODIHALLI BANGALORE-560 008 PETITIONER (BY SRI BHARAT BHAGWAN RAICHANDANI, ADVOCATE) AND:

1. THE UNION OF INDIA

Digitally REPRESENTED HEREIN BY THE SECRETARY signed by

COURT OF KARNATAKA

2. CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS
REPRESENTED HEREIN BY THE CHAIRMAN DEPARTMENT OF
REVENUE MINISTRY OF FINANCE GOVERNMENT OF INDIA, NORTH
BLOCK NEW DELHI-110 001 -2-

3. THE JOINT COMMISSIONER OF CENTRAL TAX BENGALURU
EAST GST COMMISSIONERATE 4TH FLOOR, TTMC-BMTC
BUILDING OLD AIRPORT ROAD, DOMLUR BANGALORE-560 071

4. THE ASSISTANT COMMISSIONER OF CENTRAL TAX
BENGALURU EAST GST COMMISSIONERATE 6TH FLOOR, B WING
TTMC-BMTC BUS STAND BUILDING OLD AIRPORT ROAD, DOMLUR
BENGALURU-560 071 RESPONDENTS (BY SRI JEEVAN J.
NEERALGI, ADVOCATE FOR R1 TO R4) THIS WRIT PETITION IS
FILED UNDER ARTICLES 226

AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH
THE IMPUGNED ORDER (ANNEXURE-A) FOR BEING WITHOUT THE
AUTHORITY OF LAW AND DECLARE THAT ALLEGED UNDISPUTED
ARREARS OF TAX OR INTEREST CANNOT BE DEMANDED UNDER
CHAPTER XV OF THE GST ACTS WHEN EXPRESS PROVISIONS
ARE AVAILABLE IN LAW IN SECTION 75 (12) OF GST ACTS AND
ETC., THIS PETITION, COMING ON FOR ORDERS, THIS DAY,

ORDER WAS MADE THEREIN AS UNDER:

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

ORAL ORDER

In this petition, the petitioner seeks the following reliefs: a) Quash the impugned Order in Original Number OIO No.191/JC1/B-East/2023 (hereinafter referred to as the impugned order) dated 22.11.2023 passed issued by respondent No.3 rejected the reply of the petitioner (Annexure-A) for being without the authority of law and declare that alleged undisputed -3- arrears of tax or interest cannot be demand under Chapter XV of the GST Acts when express provisions are available in law in Section 75(12) of GST Acts; b) Quash and set-aside the impugned notification No.9/2023 dated 31.03.2023 being ultravires the Constitution of India and provisions of CGST Act, 2017. c) Pass such other or further orders as this Honble Court may deem fit in the facts and circumstances of the case, and in the interests of justice and equity.

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

3. A perusal of the material on record will indicate that

pursuant to the proceedings instituted by respondent No.3 against the petitioner under Section 73 of the Central Goods and Services Tax Act, 2017 (for short the CGST Act), respondent No.3 passed Order-in-Original dated 22.11.2023 against the petitioner. A perusal of the said order will indicate that the same encompasses and includes financial periods i.e., 2017-18, 2018-19, 2019-20, 2020-21. Aggrieved by the -4- impugned order dated 22.11.2023, the petitioner is before this Court by way of the present petition.

4. In addition to reiterating the various contentions urged in the petition and referring to the material on record, learned counsel for the petitioner submits that the impugned

order passed by respondent No.3 comprises of and

encompasses the aforesaid period i.e., 2017-18, 2018-19, 2019-20, 2020-21, 2021-22, 2022-23 and April 2023 - July

2023. In this context, it is submitted that as per the Amnesty

Scheme, under Section 128(A) of the CGST Act, which came into force with effect from 01.11.2024, the petitioner will be entitled to the benefit of the scheme for the years 2017-18, 2018-19 and 2019-20. It is therefore submitted that since the impugned order passed by respondent No.3 comprises of the aforesaid period, out of which the petitioner would be entitled to the benefit of the Amnesty Scheme for a period of three

years i.e., 2017-18, 2018-19 and 2019-20, the impugned order

dated 22.11.2023 passed by 3rd respondent may be set aside and the matter be remitted back to the respondent No.3 for reconsideration afresh, in accordance with law, by directing the 3rd respondent to pass separate / individual orders for all the -5- aforesaid periods 2017-18, 2018-19, 2019-20, 2020-21, as expeditiously as possible and by considering the applications / request of the petitioner to avail the benefit of the Amnesty scheme for the periods 2017-18, 2018-19 and 2019-20 and by reserving liberty in favour of the petitioner to take recourse to such remedies as available in law in relation to the subsequent periods i.e., 2020-21, in accordance with law.

5. Per contra, learned counsel for the respondents submits that there is no merit in the petition and that the same is liable to be dismissed.

6. As rightly contended by the learned counsel for the petitioner the impugned Order-in-Original comprises of and encompasses the periods 2017-18, 2018-19, 2019-20, 2020-

21. In this context, it is relevant to state that the Amnesty

Scheme passed under Section 128(A) of the CGST Act is for the years 2017-18, 2018-19 and 2019-20. Under these circumstances, in view of the specific submission made on behalf of the petitioner that they would intend to avail the benefit of Amnesty Scheme, I deem it just and appropriate to set aside the impugned order passed by the 3rd respondent and remit the matter back to the 3rd respondent for reconsideration -6- of the matter afresh, by issuing certain directions, in accordance with law,.

7. In the result, I pass the following:

ORDER

(i) The petition is allowed.

(ii) The impugned Order-in-Original dated 22.11.2023 at Annexure-B passed by the 3rd respondent is hereby set aside.

(iii) The matter is remitted back to the 3rd respondent for reconsideration afresh, in accordance with law.

(iv) The 3rd respondent shall pass separate / individual orders for each of the aforesaid periods i.e., 2017-18, 2018-19, 2019-20, 2020- 21, in accordance with law.

(v) The petitioner is permitted to avail the benefit of Amnesty Scheme for the financial years 2017- 18, 2018-19 and 2019-20.

(vi) In so far as the periods 2020-21 are concerned,

liberty is reserved in favour of the petitioner to -7- take recourse to such remedies as available in law, including approaching this Court, subsequently and no opinion is expressed on the merits / demerits of the rival contentions. Sd/- (S.R.KRISHNA KUMAR) JUDGE kcm List No.: 1 SI No.: 55

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