

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF AUGUST, 2024

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO.16500 OF 2024 (T-RES)

BETWEEN:

M/S. BANGALORE GOLF CLUB
INCORPORATED UNDER THE MYSORE SOCIETIES
REGISTRATION ACT, 1960
NOW KNOWN AS KARNATAKA SOCIETIES
REGISTRATION ACT 1960
REPRESENTED BY ITS HON. SECRETARY
SRI. VITTAL BELANDOR
AGED ABOUT 62 YEARS
NO.2, SANKEY RAOD
HIGH GROUNDS, BENGALURU URBAN-560 001.

...PETITIONER

(BY SRI. M.N. SHANKARE GOWDA, ADVOCATE)

AND:

ASSISTANT COMMISSIONER OF COMMERCIAL TAXES
(ENFORCEMENT) – 22, ROOM NO.405
4TH FLOOR, VTK-2 BUILDING
KORAMANGALA
BENGALURU – 560 047.

...RESPONDENT

(BY SRI. HARISHA A.S., AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND
227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE

SHOW CAUSE NOTICE DTD. 07.05.2024 IN FILE NO. ADCOM/ENF/SZ/ACCT-22/INS-28/2023-24 U/S 73 OF THE CGST / KGST ACTS ISSUED BY THE RESPONDENT (ANNX-F) AND SUMMARY OF SHOW CAUSE NOTICE DTD. 08.05.2024 IN FORM GST DRC-01 IN NO.ZD2905240164859 (ANNX-G) U/S 73 OF THE CGST / KGST ACTS ISSUED BY THE RESPONDENT FOR THE TAX PERIODS 2019-20, 2020-21, 2021-22, 2022-23 AND 2023-24 (APRIL-2023) AS INVALID AND PASSED WITHOUT AUTHORITY OF LAW, IN THE PETITIONERS CASE.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 06.08.2024, THIS DAY ORDER WAS PRONOUNCED THEREIN, AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

C.A.V. ORDER

In this writ petition, the petitioner, a Club, challenges the impugned show cause notice dated 07.05.2024, as detailed in Annexure-F, and the summary of the show cause notice dated 08.05.2024, as outlined in Annexure-G, issued by the respondent for the tax periods 2019-20, 2020-21, 2021-22, 2022-23, and 2023-24. The petitioner contends that these notices, issued under Section 73 of the Central Goods and Services Tax (CGST) Act, 2017, are

flawed due to the improper consolidation of multiple tax periods into a single show cause notice.

2. The petitioner's primary argument is that the respondent cannot issue a common show cause notice by grouping the tax periods from 2019 to 2023-24. The petitioner asserts that under Section 73 of the CGST Act, a specific action must be completed within the relevant year, and the limitation period of three years applies separately to each assessment year. Consequently, the petitioner contends that clubbing multiple tax periods in a single notice is impermissible, and separate notices should have been issued for each assessment year under sub-Section (1) of Section 73.

3. The petitioner relies on the judgment of the Hon'ble Madras High Court in the case of ***M/s. Titan Company Ltd. vs. Joint Commissioner of GST***¹. The Madras High Court, while addressing a similar issue, relied

¹ W.P.No.33164 of 2023

on the Hon'ble Supreme Court's decision in ***State of Jammu and Kashmir and Others vs. Caltex (India) Ltd.***². The Hon'ble Apex Court held that where an assessment encompasses different assessment years, each assessment order can be distinctly separated and must be treated independently.

4. This Court has reviewed the judgment of the Madras High Court and the scope of inquiry under Section 73 of the CGST Act. Based on the established legal principles and the precedent set by the Hon'ble Apex Court, this Court finds that the respondent erred in issuing a consolidated show cause notice for multiple assessment years, spanning from 2019 to 2023-24.

5. Section 73(10) of the CGST Act mandates a specific time limit from the due date for furnishing the annual return for the financial year to which the tax due relates. The law stipulates that particular actions must be

² AIR 1966 SC 1350

completed within a designated year, and such actions should be executed in accordance with the law's provisions. The principles enunciated in the judgment cited by the Hon'ble Supreme Court are directly applicable to the present case.

6. For the reasons aforementioned, this Court concludes that the show cause notices issued by the respondent are fundamentally flawed. The practice of issuing a single, consolidated show cause notice for multiple assessment years contravenes the provisions of the CGST Act and established legal precedents.

7. Accordingly, this Court proceeds to pass the following:

ORDER

- (i) The writ petition is allowed;
- (ii) The impugned show cause notice dated 07.05.2024 (Annexure-F) and the summary of the show cause notice dated 08.05.2024

(Annexure-G) issued by the respondent for the tax periods 2019-20, 2020-21, 2021-22, 2022-23, and 2023-24 are hereby quashed;

(iii) This order, however, does not preclude the respondent from issuing separate show cause notices for each assessment year in compliance with Section 73 of the CGST Act, 2017.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

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