

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF FEBRUARY, 2019

PRESENT

**THE HON'BLE MR. L. NARAYANA SWAMY
ACTING CHIEF JUSTICE**

AND

THE HON'BLE MR.JUSTICE P.S. DINESH KUMAR

WRIT APPEAL NO.1643 OF 2018 (T-RES)

BETWEEN:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS
FINANCE SECRETARY
GOVERNMENT OF KARNATAKA
AMBEDKAR VEEDHI
VIDHANA SOUDHA
BENGALURU – 560001
2. THE COMMISSIONER OF
COMMERCIAL TAXES
VANIJYA THERIGE KARYALAYA-1
KALIDASA ROAD, GANDHI NAGAR
BENGALURU – 560 009
3. THE DEPUTY COMMISSIONER OF
COMMERCIAL TAXES (AUDIT)-3.6
DVO-3, 2ND FLOOR, BMTc BUILDING
TTMC, SHANTHINAGAR
BENGALURU – 560 027

...APPELLANTS

(BY SRI VIKRAM HUILGOL, ADVOCATE)

AND:

M/S. SANJANA BUILD TECH PVT. LTD.,
NO.1616, 8TH MAIN, JAYANAGAR 3RD BLOCK
BENGALURU – 560 001
(REPRESENTED BY ITS DIRECTOR
SRI.V.SUBRAMANI)

... RESPONDENT

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO ALLOW THE WRIT APPEAL AND SET ASIDE THE ORDER DATED 17/04/2018 PASSED BY THE LEARNED SINGLE JUDGE OF THIS HON'BLE COURT IN WP NO.15929/2018 (T-RES).

THIS APPEAL COMING ON FOR PRELIMINARY HEARING THIS DAY, **P.S. DINESH KUMAR J**, DELIVERED THE FOLLOWING:

JUDGMENT

State has preferred this appeal challenging order dated 17.04.2018 passed in Writ Petition No.15929/2018.

2. Sri. Vikram Huilgol, learned High Court Government Pleader for the appellants submits that the issue involved in this case is with regard to admitted tax paid by the assessee. He submits that as per 'Karasamadhana' rules,

once assessee pays admitted tax under the Karnataka Value Added Tax, the same shall not be refunded.

3. We have carefully considered submission of Shri.Vikram Huilgol and perused the records.

4. The Hon'ble Single Judge has allowed the writ petition by recording the submission of learned Government Advocate that the matter is covered by a decision rendered in W.P.No.33176/2017 and the subject matter was pending consideration in this Court in W.A.No.72/2018.

5. It is brought to our notice that the said appeal, WA No. 72/2018 has also been decided on 31.08.2018, confirming the order passed by the Hon'ble Single Judge. In the circumstances, we find no ground to interfere with the impugned order.

Resultantly, this appeal fails and it is accordingly ***dismissed.***

In view of disposal of the appeal, I.A.No.1/2018, does not survive for consideration and it is disposed of.

No costs.

**Sd/-
ACTING CHIEF JUSTICE**

**Sd/-
JUDGE**

HJ