

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF APRIL, 2022

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO.8532 OF 2022(T-RES)

BETWEEN:

M/s.GJS INFRATECH PRIVATE LIMITED
NO.19, 3RD CROSS
PUTTENAHALLI MAIN ROAD
K R LAYOUT, 6TH PHASE
J P NAGAR
BENGALURU-560078
REPRESENTED BY ITS
MANAGING DIRECTOR
SRI JANGAM GOPI
AGED ABOUT 52 YEARS
S/O SRI POSHANNA

..PETITIONER

(BY SRI.THIRUMALESH M., ADVOCATE)

AND:

1. JOINT COMMISSIONER OF COMMERCIAL
TAXES(APPEALS)-3
2ND FLOOR, BMTC BUIDLING
TTMC `B' BLCOK
SHANTHINAGAR
BENGALURU-560027

2.COMMERCIAL TAXES OFFICER(AUDIT)-3.3
DGSTO-3, IST FLOOR
BMTC BUS STAND
4TH BLOCK, JAYANAGAR

BENGALURU-560011

..RESPONDENTS

(BY SRI.VINOD KUMAR, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE APPELLATE ORDER PASSED UNDER SECTION 62(6) OF KVAT ACT DATED 27.10.2021 BY THE JOINT COMMISSIONER OF COMMERCIAL TAXES(APPEALS)-3 BENGALURU FOR THE YEAR 2015.16 IN VAT.AP.16/21.22 FOR THE YEAR 2015.16 IN CAS ORDER NO.394429629 ONLY IN SO FAR AS HAVING ENHANCED THE TOTAL TURNOVER OF THE PETITIONER TO RS.27,93,84,284 FROM RS.21,42,76,332 WITHOUT ISSUE OF NOTICE AND OPPORTUNITY OF BEING HEARD ANNEXURE-E ETC.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING `B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. The petitioner is before this court seeking for the following reliefs:

(i) issue a writ of certiorari or a declaration in the nature of writ of certiorari quashing the appellate order passed under section 62(6) of KVAT Act dated 27.10.2021 by the Joint Commissioner of Commercial Taxes(Appeals)-3, Bengaluru for the year 2015-16 in VAT.AP.16/21-22 for the year 2015-16 in CAS Order No.394429629 only in so far as having enhanced the total turnover of the petitioner to Rs.27,93,84,284 from Rs.21,42,76,332 without

issue of notice and opportunity of being heard - Annexure-E.

(ii) issue a writ of certiorari or a declaration in the nature of writ of certiorari quashing the consequential order passed under Section 39(1) of KVAT Act dated 29.10.2021 by the Commercial Tax Officer (Audit)-3.3, Bengaluru for the year 2015-16 in CAS Order No.342303091.01 –Annexure-F.

(iii) and grant such other relief or reliefs as this Hon'ble Court may deem fit in the circumstances of the case, in the interest of justice."

2. The only grievance of the petitioner is that the impugned order dated 27.10.2021 passed under Section 62(6) of KVAT Act vide Annexure-E, the petitioner has not been heard and no opportunity has been granted to the petitioner to answer the enhancement of turn-over by virtue of which tax has been enhanced.
3. A perusal of the papers indicates that no such notice has been issued.
4. In view thereof, I pass the following:

ORDER

- i. A Writ of certiorari is issued, Order dated 27.10.2021 at Annexure-E is quashed.
- ii. The matter is remitted to the respondent No.2 for fresh disposal.
- iii. The respondent No.2 shall provide an opportunity to the petitioner of filing his objections. Petitioner to appear before the second respondent on 05.05.2022.
- iv. It is made clear that Annexure-E is quashed only insofar as enhancement of total turn-over is concerned.
- v. Writ Petition is disposed of.

**Sd/-
JUDGE**

SBN