



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF MARCH, 2024

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION No. 19069 OF 2023 (T-RES)

BETWEEN:

1. EMERGENT PAYMENTS AND TECHNOLOGIES
INDIA PVT. LTD.,
A COMPANY INCORPORATED
(REP. BY ITS DIRECTOR
SHRI SALIL BEPEN RAJADHYAKSHA,
DIRECTOR,
S/O SHRI BEPEN RAJADHYAKSHA),
AGED ABOUT 39 YEARS,
HAVING FACTORY AT CABIN 27,
LEVEL 8, TOWER 1,
UMIYA BUSINESS BAY,
CESSNA BUSINESS PARK,
BENGALURU-560103.

...PETITIONER

(BY SRI PRADYUMNA HEJIB., ADVOCATE)



AND:

1. THE JOINT COMMISSIONER OF
COMMERCIAL TAXES (APPEAL 4),
ROOM No. 221, SECOND FLOOR,
TTMC-BMTC COMPLEX,
B BLOCK, SHANTHINAGAR,
BENGALURU-560027.
2. THE COMMERCIAL TAX OFFICER,
(AUDIT-4.11) DGSTO-04,
TTMC BUIDLING, 5TH FLOOR,
BMTC BUS DEPOT, 80 FEET ROAD,



KORAMANGALA,
BANGALORE-560095.

...RESPONDENTS

(BY SRI HEMA KUMAR K., HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH ORDER-IN-APPEAL BEARING No.GST.AP.18/2023-24 DATED 23.06.2023 ANNEXURE-A.

THIS PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

In this petition, petitioner seeks quashing of the impugned order in appeal dated 23.06.2023 vide Annexure - A passed by respondent No.1.

2. Heard Sri. Pradyumna Hejib, learned counsel for the petitioner and Sri. Hema Kumar K., learned HCGP for respondents.

3. A perusal of the material on record would indicate that aggrieved by the order in original dated 22.02.2023 passed by respondent No.2, the petitioner preferred an appeal before respondent No.1 - Appellate Authority and deposited the pre-deposit of 10% in the



Electronic Credit Ledger on 19.05.2023. On 23.06.2023, respondent No.1 passed the impugned order in the appeal dismissing the same on the ground that the pre-deposit had been made in the Electronic Credit Ledger and not Electronic Cash Ledger as required under Section 107 of the GST Act. Aggrieved by the impugned order passed by the Appellate Authority, the petitioner is before this Court by way of the present petition.

4. Learned counsel for the petitioner would submits that after disposal of the appeal, the amount of 10% deposited by the petitioner in the Electronic Credit Ledger has been separately recovered by the respondents and consequently, the impugned order may be set aside and the appeal before the respondent No.1 may be restored to the file of the respondent No.1 with a direction to dispose of the appeal in accordance with law.

5. It is further submitted that till respondent No.1 disposes of the appeal, which would stand restored pursuant to the present order, respondents are to be



directed not to take coercive/precipitative steps against the petitioner.

6. Per contra, learned HCGP for respondents submits that since the petitioner had not deposited 10% in the Electronic Cash Ledger and had made deposit in the Electronic Credit Ledger, which was impermissible in law, respondent No.1 was fully justified in passing the impugned order, which does not warrant interference by this Court in the present petition.

7. Perusal of the material on record would indicate that the petitioner had incorrectly deposited 10% in the Electronic Credit Ledger instead of the Electronic Cash Ledger as required in law as a result of which the Appellate Authority dismissed the appeal on the ground that the petitioner had not deposited 10% in the Electronic Credit Ledger. However, having regard to the subsequent event that has transpired wherein the said amount of 10% has been recovered by the respondent from the petitioner, I deem it just and appropriate to set aside the impugned



order and restore the appeal preferred by the petitioner to the file of the respondent No.1 - Appellate Authority for consideration on merits in accordance with law. It is further directed that till disposal of the appeal before the First Appellate Authority pursuant to this order, the respondents shall not take any coercive/precipitative action against the petitioner.

In addition thereto, the respondents are directed to unblock and lift the seizure of the Bank Current Account of the petitioner bearing account No.50200018448492 of HDFC Bank. Accordingly, writ petition is disposed of.

**Sd/-
JUDGE**