



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 2ND DAY OF JULY, 2024**

BEFORE

THE HON'BLE MR JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 15620 OF 2024 (T-RES)

C/W

WRIT PETITION NO. 19662 OF 2022 (T-RES)

WRIT PETITION NO. 24110 OF 2023 (T-RES)

WRIT PETITION NO. 25531 OF 2023 (T-RES)

WRIT PETITION NO. 1928 OF 2024 (T-RES)

IN W.P. NO.15620 OF 2024

BETWEEN:

1. M/S. TRELLEBORG INDIA PRIVATE LIMITED
A COMPANY UNDER THE COMPANIES
ACT (1) 1956, HAVING ITS
REGISTERED OFFICE AT 22/9
BERETANA AGRAHARA, HOSUR MAIN ROAD
BANGALORE - 560 100
AND REPRESENTED BY ITS
FINANCE DIRECTOR
MR. ANAND RANGANATHAN

... PETITIONER

(BY SRI. PRASAD PARANJAPE, ADVOCATE FOR
SRI BHARATH JANARTHANAN., ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS CHIEF SECRETARY
TO THE GOVERNMENT, VIDHANA SOUDHA
BENGALURU - 560 001, KARNATAKA





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2. COMMISSIONER OF COMMERCIAL TAXES
VANIJYA THERIGE KARAYALA 1
1ST FLOOR, GANDHINAGAR
BENGALURU - 560 009
KARNATAKA

3. DEPUTY COMMISSIONER OF COMMERCIAL TAXES
(AUDIT 4.1) NO.601, 6TH FLOOR
BMTc DEPOT, TTMC BUILDING
NEAR SONY SIGNAL
KORAMANGALA, BENGALURU - 560 095
KARNATAKA

... RESPONDENTS

(BY SRI. SHAMANTH NAIK, HCGP)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECTION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA CALLING FOR THE RECORDS PERTAINING TO THE PETITIONER'S CASE AND AFTER GOING INTO THE VALIDITY AND LEGALITY THEREOF, TO QUASH AND SET ASIDE THE IMPUGNED NOTICE IN FORM GST DRC-01 DTD. 18.05.2024 BEARING REFERENCE NO. ZD2905240525746 ALONG WITH SHOW CAUSE NOTICE NO. DCCT. AUDIT-4.1/SCN/2023-24 DTD. 18.05.2024 PERTAINING TO TAX PERIOD APRIL 2019 TO MARCH 2020 ISSUED BY R-3 HEREIN AND ENCLOSED AS ANNEXURE-A COLLY AND ETC.

IN W.P. NO.19662 OF 2022

BETWEEN:

1. M/S. TRELLEBORG INDIA PRIVATE LIMITED
A COMPANY UNDER THE COMPANIES
ACT (1) 1956,
HAVING ITS REGISTERED OFFICE AT 22/9
BERETANA AGRAHARA



HOSUR MAIN ROAD
BANGALORE - 560 100
REPRESENTED BY ITS
MANAGING DIRECTOR
MR. RANJAN SEN
IT IS REGISTERED UNDER
COMPANIES ACT, 1956.

... PETITIONER

(BY SRI. PRASAD PARANJAPE, ADVOCATE FOR
SRI BHARATH JANARTHANAN., ADVOCATE)

AND:

1. UNION OF INDIA
THROUGH ITS SECRETARY
DEPARTMENT OF REVENUE
MINISTRY OF FINANCE
GOVERNMENT OF INDIA,
CENTRAL SECRETARIAT
NORTH BLOCK
NEW DELHI - 110 001.
2. STATE OF KARNATAKA
REPRESENTED BY ITS CHIEF SECRETARY
TO THE GOVERNMENT
VIDHANA SOUDHA
BENGALURU - 560 001
3. ASSISTANT COMMISSIONER
COMMERCIAL TAXES
ENFORCEMENT 22, SOUTH ZONE
VTK-1, 'B' BLOCK
ROOM NO.405, 4TH FLOOR
KORAMANGALA
BENGALURU - 560 034.



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4. COMMISSIONER OF COMMERCIAL TAXES
COMMERCIAL TAXES (KARNATAKA)
VTK-2, KORAMANGALA
BENGALURU - 560 034.
5. COMMISSIONER OF CGST AND CENTRAL EXCISE
CGST COMMISSIONERATE - BENGALURU
SOUTH DIVISION-8
KORAMANGALA
BENGALURU - 560 034.

... RESPONDENTS

(BY SRI. SHAMANTH NAIK, HCGP FOR R2 TO R4;
SMT PREETHA M., CGSC FOR R1;
SRI ARAVIND V. CHAVAN, ADVOCATE FOR R5)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECTION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA CALLING FOR THE RECORDS PERTAINING TO THE PETITIONER'S CASE AND AFTER GOING INTO THE VALIDITY AND LEGALITY THEREOF, TO QUASH AND SET ASIDE THE IMPUGNED NOTICE TITLED 'ENDORSEMENT' BEARING NO.ADCOM/ENF/SZ/ACCT-22/INS-18/2021-22 DATED 14.09.2022 FOR THE TAX PERIOD 2017-18 ISSUED BY R3 HEREIN AT ANNEXURE-A AND ETC.

IN W.P. NO.24110 OF 2023

BETWEEN:

1. M/S. TRELLEBORG INDIA PRIVATE LIMITED
A COMPANY UNDER THE COMPANIES
ACT (1) 1956,
HAVING ITS REGISTERED OFFICE AT 22/9
BERETANA AGRAHARA



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HOSUR MAIN ROAD
BANGALORE - 560 100
AND REPRESENTED BY ITS
MANAGING DIRECTOR
MR. RANJAN SEN

... PETITIONER

(BY SRI. PRASAD PARANJAPE, ADVOCATE FOR
SRI BHARATH JANARTHANAN., ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS CHIEF SECRETARY
TO THE GOVERNMENT
VIDHANA SOUDHA
BENGALURU - 560 001
2. COMMERCIAL TAX OFFICER
(AUDIT)-4.11, DGSTO-4,
TTMC BUILDING
5TH FLOOR, BMTB BUS DEPOT
80 FEET ROAD, KORAMANGALA
BENGALURU - 560 095

... RESPONDENTS

(BY SRI. SHAMANTH NAIK, HCGP)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA CALLING FOR THE RECORDS PERTAINING TO THE PETITIONER'S CASE AND AFTER GOING INTO THE VALIDITY AND LEGALITY THEREOF, TO QUASH AND SET ASIDE THE IMPUGNED NOTICE IN FORM GST DRC-01 DTD. 26.09.2023 BEARING REFERENCE NO. ZD290923045251D FOR THE TAX PERIOD JULY 2017-MARCH 2018 ISSUED BY R-2 HEREIN (ANNEXURE-A) AND ETC.



IN W.P. NO.25531 OF 2023

BETWEEN:

1. M/S. TRELLEBORG INDIA PRIVATE LIMITED
A COMPANY UNDER THE COMPANIES
ACT (1) 1956,
HAVING ITS REGISTERED OFFICE AT 22/9
BERETANA AGRAHARA, HOSUR MAIN ROAD
BANGALORE - 560 100
AND REPRESENTED BY ITS
MANAGING DIRECTOR MR. RANJAN SEN

... PETITIONER

(BY SRI. PRASAD PARANJAPE, ADVOCATE FOR
SRI BHARATH JANARTHANAN., ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS CHIEF SECRETARY
TO THE GOVERNMENT
VIDHANA SOUDHA, BENGALURU - 560 001
2. COMMISSIONER OF COMMERCIAL TAXES
VANIJYA THERIGE KARAYALA - 1
1ST FLOOR, GANDHINAGAR
BENGALURU - 560 009
KARNATAKA
3. ASSISTANT COMMISSIONER OF COMMERCIAL TAXES
LGSTO-025, 2ND FLOOR, V.T.K.-2,
2ND STAGE, RAJENDRA NAGAR
KORAMANGALA, BANGALORE - 560 047
KARNATAKA

... RESPONDENTS

(BY SRI. SHAMANTH NAIK, HCGP)



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THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECTION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA CALLING FOR THE RECORDS PERTAINING TO THE PETITIONER'S CASE AND AFTER GOING INTO THE VALIDITY AND LEGALITY THEREOF, TO QUASH AND SET ASIDE THE IMPUGNED NOTICE IN FORM GST DRC-01 DTD. 09.10.2023 BEARING REFERENCE NO. ZD291023009273S, ALONG WITH SHOW CAUSE NOTICE NO.ACCT(P)/LGSTO-025/DRC-01/R1vsR3B-43/2023-24 DATED 07.10.2023 FOR THE TAX PERIOD APRIL 2018-MARCH 2019 ISSUED BY R3 HEREIN AND COLLECTIVELY ENCLOSED AS "ANNEXURE 'A'-COLLY" AND ETC.

IN W.P. NO.1928 OF 2024

BETWEEN:

1. M/S. TRELLEBORG INDIA PRIVATE LIMITED
A COMPANY UNDER THE COMPANIES
ACT (1) 1956,
HAVING ITS REGISTERED OFFICE AT 22/9
BERETANA AGRAHARA, HOSUR MAIN ROAD
BANGALORE - 560 100
AND REPRESENTED BY ITS
FINANCE DIRECTOR MR. RANJAN SEN

... PETITIONER

(BY SRI. PRASAD PARANJAPE, ADVOCATE FOR
SRI BHARATH JANARTHANAN., ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS CHIEF SECRETARY
TO THE GOVERNMENT
VIDHANA SOUDHA
BENGALURU - 560 001
KARNATAKA



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2. COMMISSIONER OF COMMERCIAL TAXES
VANIJYA THERIGE KARAYALA 1
1ST FLOOR,
GANDHINAGAR
BENGALURU - 560 009
KARNATAKA

3. DEPUTY COMMISSIONER OF COMMERCIAL TAXES
(AUDIT 4.1) V.T.K.II,
4TH FLOOR,
D.V.O.-4,
KORAMANGALA
BANGALORE - 560 047
KARNATAKA

... RESPONDENTS

(BY SRI. SHAMANTH NAIK, HCGP)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECTION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA CALLING FOR THE RECORDS PERTAINING TO THE PETITIONER'S CASE AND AFTER GOING INTO THE VALIDITY AND LEGALITY THEREOF, TO QUASH AND SET ASIDE THE IMPUGNED NOTICE IN FORM GST DRC-01 DTD. 15.12.2023 BEARING REFERENCE NO. ZD291223039418A ALONG WITH SHOW CAUSE NOTICE NO. DCCT. AUDIT-4.1/SCN/2023-24 DTD. 15.12.2023 PERTAINING TO TAX PERIOD APRIL 2018 TO MARCH 2019 ISSUED BY R-3 HEREIN AND ENCLOSED AS ANNEXURE-'A'-COLLY AND ETC.

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



ORDER

These petitions have been filed by M/s. Trelleborg India Private Limited, who is the petitioner in all these batch of writ petitions challenging the notices/endorsement in Form GST DRC-01 as hereunder:-

W.P. No.15620/2024	GST DRC-01	18.05.2024
W.P.No.19662/2022	GST DRC-01	14.09.2022
W.P.No.24110/2023	GST DRC-01	26.09.2023
W.P.No.25531/2023	GST DRC-01	09.10.2023
W.P.No.1928/2024	GST DRC-01	15.12.2023

2. The notices in Form GST DRC-01 have been issued for various tax periods on the ground that notices have been issued to a non-existent entity, viz., M/s. Trelleborg Sealing Solutions (India) Private Limited.

3. It is to be noticed that in terms of the Scheme of Amalgamation approved by National Company Law Tribunal (NCLT) Bengaluru Bench, M/s. Trelleborg Sealing



Solutions (India) Private Limited was amalgamated resulting in the creation of a new entity M/s. Trelleborg India Private Limited, which is the petitioner herein in terms of the order dated 13.06.2017 passed by NCLT, Bengaluru Bench in T.P.No.175/2017 & 176/2017.

4. After amalgamation of M/s. Trelleborg Sealing Solutions (India) Private Limited with the Transferee Company M/s. Trelleborg Industrial Products Private Limited, the new entity formed underwent change of name and accordingly, the petitioner represents a new Company consequent to amalgamation as per the order dated 13.06.2017 passed by NCLT, Bengaluru Bench in T.P.No.175/2017 & 176/2017.

5. Sri Shamanth Naik, learned HCGP appearing for the respondents refers to the order dated 13.06.2017 passed by NCLT, Bengaluru Bench in T.P.No.175/2017 & 176/2017 and submits that in terms of the said order, the liability stands transferred to the Transferee Company.



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Said aspect is taken note of.

6. It is to be noticed that after the approval of Scheme of Amalgamation by NCLT, an application for cancellation of registration of M/s. Trelleborg Sealing Solutions (India) Private Limited was made on 29.11.2021 and the final order came to be passed on 03.12.2021 in Form GST REG-19 and the effective date of cancellation of registration was stipulated as 29.11.2021.

7. It is submitted that despite all developments, a pre show cause notice came to be issued and in reply to which, the developments as referred to have been made and reference of such reply is stated to have been made. The relevant details come forth in the Summary Table of dates filed by the petitioner, which is extracted below:-



	Particulars	I	II	III	IV	V (Lead Petition)
1	Writ Petition No.	19662/2022	24110/2023	25531/2023	1928/2024	15620/2024
2	Period of dispute	2017-18	2017-18	2018-19	2018-19	2019-20
3	Appointed date for amalgamation of TSSIPL into the petitioner	01.04.2016 (page 57)				
4	NCLT Approval for amalgamation scheme	13.06.2017 (page 48)				
5	Effective date for amalgamation	13.07.2017 (page 58)				
6	Application for cancellation of registration	29.11.2021 (page 87)				
7	Order for cancellation of registration	03.12.2021 (page 90)				
8	Issuance of DRC-01A to TSSIPL		14.09.2023	23.09.2023	10.10.2023	10.10.2023 (page 91)
9	Intimation of amalgamation to department vide written reply	14.01.2022	22.09.2023	29.09.2023	16.10.2023	16.10.2023 (page 95)
10	Show cause notice in DRC-01 issued to TSSIPL (non-existent entity)	14.09.2022	26.09.2023	09.10.2023	15.12.2023	18.05.2024 (page 37)

8. It is submitted that despite the intimation of amalgamation of the Company having been made in



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writing, the show cause notices have been issued to M/s. Trelleborg Sealing Solutions (India) Private Limited, which is a non-existent entity and accordingly the same have been challenged in these Writ Petitions and details of date of issuance of such notices is detailed at Serial No. 10 of the Summary Table of Dates, extracted hereinabove.

9. Such of the facts as referred to above are not in dispute. In light of the legal position emanated from the decision of Apex Court in **Principal Commissioner of Income Tax, New Delhi v. Maruti Suzuki (India) Limited** reported in **(2020) 18 SCC 331**, it is clear that once an amalgamating entity ceases to exist upon approved Scheme of Amalgamation, the question of continuing the proceedings as regards the non-existent Company cannot be permitted. This position has been reiterated in the subsequent judgments of this Court including the order of this Court dated 04.06.2024 passed



in W.P.No.14156/2024 [*M/s.Rajdisle Private Limited v. The Income Tax Officer and Another*].

10. Admittedly, as the notices/endorsement at Annexure-'A' are issued to a non-existent entity, the proceedings sought to be initiated by virtue of show cause notices/endorsement at Annexure-'A' in all the petitions are set aside. It is needless to state that the respondents are at liberty to pursue the proceedings against the appropriate entity regarding the subject matter of notices at Annexure-'A' as is permissible in law, as the petitions are disposed off on the premise that no proceedings could have been initiated against a non-existent Company. All contentions are kept open

Accordingly, the petitions are ***disposed off***.

Sd/-
JUDGE

VGR