NC: 2025:KHC-D:4733
WP No. 102284 of 2022

IN THE HIGH COURT OF KARNATAKA,

DHARWAD BENCH

DATED THIS THE 14TH DAY OF MARCH, 2025

BEFORE

THE HON'BLE MS. JUSTICE JYOTI MULIMANI

WRIT PETITION NO. 102284 OF 2022 (T-RES)

BETWEEN:

M/S. SWASTIK CEMENT AND MINERAL CO.,
H.NO. 1456/A, 29TH WARD, 8TH CROSS,
M.J. NAGAR, HOSPET–583 201.

REP. BY ITS PROPRIETOR,
K.V. NAGARAJ, AGE:
OCC: BUSINESS,
RES: HOSPET-583 201,
TIN NO. 29 650253164.

... PETITIONER

(BY SRI. NARAYAN G.RASALKAR., ADVOCATE)

AND:

1. THE JOINT COMMISSIONER
   OF COMMERCIAL TAXES (APPEALS),
   VANIJYE THERIGE BHAVAN,
   DEVARAJ URS LAYOUT, 'A' BLOCK,
   DAVANAGERE-577 006.

2. THE DEPUTY COMMISSIONER
   OF COMMERCIAL TAXES (AUDIT 6.2),
   DVO 6, 3RD FLOOR, BLOCK NO.II,
   M.S. INDUSTRIAL COMPLEX,
   KIADB BUILDING, PEENYA INDUSTRIAL AREA,
   4TH PHASE, 14TH CROSS, 2ND STAGE,
   BENGALURU-560 058.

3. THE ASSISTANT COMMISSIONER OF
   COMMERCIAL TAXES (AUDIT AND RECOVERY),
   DVO 2, OFFICE AT 3RD FLOOR,

Digitally signed by
PREMCHANDRA M R
Location: HIGH
COURT OF
KARNATAKA

KANDAYA BHAVAN, B.M. ROAD,
RAMANAGAR, BENGALURU.

… RESPONDENTS

(BY SRI. GANGADHAR J.M., AAG A/W
SMT. KIRTILATA R. PATIL, HCGP FOR R1-R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, SEEKING CERTAIN RELIEFS.

THIS WRIT PETITION IS LISTED FOR HEARING-INTERLOCUTORY APPLICATION, THIS DAY, AN ORDER IS MADE AS UNDER:

ORAL ORDER

Sri.Narayan G.Rasalkar., counsel for the petitioner, Sri.Gangadhar J.M., AAG for respondents 1 to 3 have appeared in person.

2. The captioned Writ Petition is filed seeking following reliefs.

a) Issue of Writ of Certiorari or any other Writ in the nature of Writ of Certiorari and directions and quash the impugned Endorsement No.JCCT.AP.DVG.R.A.T.No.918.2020.21 dated 31.12.2020 passed by the Respondent No.1 Joint Commissioner of Commercial Taxes (Appeals), Davanagere, vide Annexure-Q being illegal improper and irregular, and consequently allow the rectification

application dated 20.12.2020 filed by the Petitioner vide Annexure-P, according to the law.

b) Further, in consequence thereof, issue Writ of Certiorari or any other writ in quashing the impugned appeal order dated 28.07.2018 passed under section 62 of the KVAT Act, 2003 by the Joint Commissioner of Commercial Taxes (Appeals), Davanagere under appeal No.CST/AP/576/14-15 for the year 2006-2007 vide Annexure-J and also quash its consequential Assessment order dated 26.04.2014 passed by the Respondent Deputy Commissioner of Commercial Taxes, (Audit) 6.2 Bengaluru vide Annexure-E, and remand the case to the Respondent Deputy Commissioner of Commercial Taxes, (Audit) 6.2 Bengaluru, for fresh disposal with a direction to after providing opportunity to the petitioner to produce the evidences in his defense and to fresh/ revised statement of objections.

3. Counsel for the respective parties urged several contentions. Heard the arguments and perused the writ papers with care.

4. The order was passed by the Deputy Commissioner of Commercial Taxes (Audit 6.2), Bengaluru on 26.04.2014. As against the said order, the petitioner filed an appeal before the Joint Commissioner of Commercial Taxes (Appeals), Davanagere Division, Davanagere in appeal No.CST/AP/576/14-15. The Joint Commissioner of Commercial Taxes vide order dated 28.07.2018 dismissed the appeal and confirmed the order of the Deputy Commissioner of Commercial Taxes. The petitioner filed a rectification application under Section 69 of the Karnataka Value Added Tax Act, 2003. The same was rejected on 31.12.2020.

5. As against the order of the Joint Commissioner of Commercial Taxes, there is an alternate and statutory remedy of filing an appeal before the Karnataka Appellate Tribunal under Section 63 of the Karnataka Value Added Tax Act, 2003. Hence, I declined to exercise power under Writ jurisdiction.

6. Resultantly, the Writ Petition is ***dismissed.*** The petitioner may approach statutory appropriate forum, if so advised. The Authority may consider the time spent by the petitioner before this Court while entertaining the appeal.

Sd/-
(JYOTI MULIMANI)
JUDGE

CLK
LIST NO.: 2 SL NO.: 28