HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF DECEMBER, 2025

BEFORE

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

WRIT PETITION NO. 34270 OF 2025 (T-RES)

BETWEEN:

M/S RAMMS INDIA PRIVATE LIMITED
REGISTERED UNDER THE COMPANIES ACT, 1956/2013
CIN- U74300KA1994PTC016388
HAVING ITS REGISTERED OFFICE AT
115/1, KRISHNAPPA LAYOUT,
LALBAGH ROAD,
BENGALURU URBAN,
KARNATAKA – 560 027
REPRESENTED BY ITS DIRECTOR
SHRI. GAUTAM CHOWDHURY
AGED ABOUT 66 YEARS,
S/O SHRI. SISIR RANJAN CHOWDHURY,
RESIDING AT NO.12, HANUMANTHAPPA ROAD,
LINGARAJA PURAM,
BENGALURU, KARNATAKA – 560 033

…PETITIONER

(BY SRI. LAKSHMI MENON, ADVOCATE)

AND:

1. THE DEPUTY COMMISSIONER OF COMMERCIAL TAXES
(AUDIT)-3.1, DGSTO-03, II FLOOR,
BMTC BUILDING, SHANTI NAGAR,
BENGALURU, KARNATAKA – 560 027

2. THE MANAGER
CANARA BANK, 1-APR,
WALTON ROAD, BENGALURU,
KARNATAKA – 560 001

3. M/S. XYLEM RESOURCE MANAGEMENT PRIVATE LIMITED
REGISTERED UNDER THE COMPANIES ACT, 1956/2013

CIN U74140KA2007PTC043994
HAVING ITS REGISTERED OFFICE AT:
NO.115/1, KRISHNAPPA LAOUT,
LALBAGH RAOD, BANGALORE,
KARNATAKA, INDIA – 560 027.
REPRESENTED BY ITS DIRECTOR

...RESPONDENTS

(BY SMT. JYOTI M. MARADI, HCGP FOR R1;
SRI. VIGNESH SHETTY, ADVOCATE FOR R2)

THIS W.P. IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE ORDER(S), DIRECTION(S), WRIT(S) IN THE NATURE OF CERTIORARI TO SET ASIDE AND QUASH THE IMPUGNED FORM GST DRC-13 DATED 14.10.2025 /2025-26 ISSUED BY THE BEARING NO. T. NO. DCCT/ADT 3.1/RESPONDENT NO.1 FOR THE F.Y. 2022-2023 (ANNEXURE-A) AND ETC.,

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, petitioner seeks for the following reliefs:-

"A. Issue order(s), direction(s), writ(s) in the nature of Certiorari to set aside and quash the Impugned Form GST DRC – 13 dated 14.10.2025 bearing No.T.No.DCCT/ADT 3.1/ /2025-26 issued by the Respondent No.1 for the F.Y. 2022-23 (Annexure-A);

B. Issue order(s), direction(s), writ(s) in the nature of Mandamus or any other appropriate writ directing the Respondents to lift the attachment and refund the said amount illegally recovered of the amount of Rs.24,73,000/- (Rupees Twenty-Four Lakhs Seventy-

Three Thousand only) as reflected in Annexure-A1 along with applicable interest forthwith; and

C. *Pass any such other orders and directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."*

2. Heard learned counsel for the petitioner, learned HCGP for the respondent and learned counsel for respondent No.2 and perused the material on record.

3. A perusal of the material on record will indicate that the petitioner-Company was incorporated on 12.10.1994. Subsequently, one more private limited company in the name and style M/s. Xylem Resource Management Private Limited Company (XRMPL) was incorporated on 28.09.2007. It is an undisputed fact and matter of record that Gautam Chowdhury, one of the Directors of the petitioner-Company also happens to be one of the Directors of XRMPL.

4. On 01.08.2023, respondent No.1 issued a show-cause notice under Section 73 of the KGST Act to the aforesaid Company, XRMPL, which culminated in the adjudication order dated 29.11.2023 confirming payment made against XRMPL in pursuance of the order dated 29.11.2023. In pursuance of the said

order, the respondents did not take any steps to recover the amount from the aforesaid XRMPL, but instead the respondents issued the impugned notice in Form GST DRC-13 dated 14.10.2025 and recovered a sum of Rs.24,73,000/- from Canara Bank, in which the petitioner maintains its account. It is the grievance of the petitioner that merely because Gautam Chowdhury happens to be the Director in both the petitioner-Company and XRMPL and the petitioner-Company, not being the garnishee in the aforesaid XRMPL nor the petitioner-Company being liable to pay any amount to the aforesaid XRMPL, which suffered the aforesaid adjudication order, it is impermissible in law for respondent No.1 to proceed and recover the amount from the petitioner-Company in pursuance of the impugned notice, which deserves to be quashed.

5. It is also submitted that in the light of the judgment of this Court in the case of ***SJR Prime Corporation Private Limited Vs. The Superintendent of Central Tax and another – W.P.No.35114/2024 dated 09.04.2025,*** which is followed by the Hon'ble Division Bench of the Bombay High Court in the case of ***M/s. Galaxy International Vs. Union of India and others –***

W.P.No.11399/2024 dated 24.06.2025, the petitioner would appear before respondent No.1 on 05.01.2026 and the claim of the petitioner for refund of the amount recovered may be considered by respondent No.1, who may be directed to pass appropriate orders, within a stipulated timeframe.

6. Per contra, learned HCGP for respondent No.1 and learned counsel for respondent No.2 jointly submit that there is no merit in the petition and that the same is liable to be dismissed.

7. A perusal of the aforesaid facts and circumstances and the material on record will indicate that undisputedly the show-cause notice dated 01.08.2023 was issued not to the petitioner-Company, but to the aforesaid XRMPL, which is an independent, juristic and legal entity, against whom adjudication order dated 29.11.20223 was passed by the respondents. It follows therefrom that the petitioner, which is also an independent, juristic and legal entity, which cannot be held to be liable to pay dues demanded from the XRMPL, especially when the petitioner-Company is neither a garnishee nor the petitioner Company is liable to pay any dues to the said XRMPL. Further, merely because Gautam Chowdhury happens to be the Director of both petitioner-Company

and XRMPL, the said circumstance could not have been made basis to seek recovery of dues from the petitioner-Company by purporting to lift the corporate veil, which is impermissible in law.

8. Under these circumstances, in the case ***of SJR Prime Corporation Private Limited (supra),*** this Court held as under:

> *"In this petition, the petitioner seeks the following reliefs:*
>
> *"i. Issue a writ of certiorari or any other writ as the Hon'ble High Court may deem fit and quash the following:*
>
> ***"ANNEXURE-C:*** *Impugned communication issued by the Respondent No.2 on 05.12.2023 in GEXCOM/ADT/CAG/21/2023-CGST-RANGE-E-DIV-8-COMMRTE-Bengaluru(E).*
>
> ***ANNEXURE-E:*** *Impugned notice dated 30.07.2024 issued by the Respondent No.2 to the Petitioner's bank under Section 79(1)(c) of the CGST Act in GST DRC-13 in Notice No.02/2023-24 (DRC-13) and DIN: 20240757000000000D2A.*
>
> ***ANNEXURE-H:*** *Impugned order/ communication dated 08.11.2024 issued by the Respondent No.2 in DIN:20241157000000666C A4 for the period July-2017 to March-2018."*
>
> *ii. To issue the writ of mandamus or any other appropriate writ in the nature of mandamus, order or direction, directing the respondent No.2 to lift the attachment placed on the bank Account No.32445027247 of the Petitioner maintained with State Bank of India, No.117, 7th Block, Industrial Layout, Koramangala, Bengaluru-560034 for recovery of the outstanding interest payable in pursuance to garnishee notice dated 30.07.2024 issued by the respondent No.2 vide Annexure-E;*

iii. *To issue any other order(s), direction(s), writ(s) or any other relief(s) as the Hon'ble Court deems fit and proper in the facts and circumstances of the case and in the interest of justice."*

2. Heard learned counsel for the petitioner and learned counsel for respondents and perused the material on record.

3. A perusal of the material on record will indicate that the prayer Nos.i and ii were earlier sought for by the petitioner in Writ Petition No.26351/2024, which was disposed of by this Court, by order dated 01.10.2024. The said order reads as under:

"ORAL ORDER

In this petition, petitioner seeks the following reliefs:

" i) issue a writ of certiorari or any other writ as the Hon'ble High Court may deem fit and quash the following:

***ANNEXURE-E** impugned notice dated 30.7.2024 issued by the Respondent No.2 to the Petitioner's bank under section 79(1)(c) of the CGST Act in GST DRC-13 in Notice No.02/2023 (DRC-13) and DIN: 20240757000000000D2A.*

ii. To issue the writ of mandamus or any other appropriate writ in the nature of mandamus writ, order or direction directing direct the Respondent No.2 to lift the attachment placed on the bank account No.32445027247 of the Petitioner maintained with State Bank of India, No. 117, 7th Block Industrial Layout, Koramangala, Bengaluru - 560034 for recovery of the outstanding interest payable in pursuant to garnishee notice dated 30.07.2024 issued by Respondent No.2 (ANNEXURE-E).

iii) To issue any other order(s), direction(s), writ(s) or any other relief(s) as this Hon'ble Court deems fit and proper in the facts and

circumstances of the case and in the interest of justice;"

2. Heard learned counsel for the petitioner and learned counsel for the respondents and perused the material on record.

3. In addition to reiterating the various contentions urged in the petition and referring to the material on record, learned counsel for the petitioner submits that the impugned notice in GST DRC – 13 dated 30.07.2024 issued by respondent No.2 under Section 79(1)(c) of the CGST Act to the State Bank of India blocking/freezing the Bank account for the alleged demand in a sum of Rs.64,49,778/- is illegal, arbitrary and contrary to the principles of natural justice apart from being vitiated on account of non following of prescribed law prior to issuing notice invoking Section 79 of the CGST Act and as such, the impugned order at Annexure-E deserves to be quashed.

4. Per contra, learned counsel for the respondent on instructions submits that respondent has followed the procedure prescribed in law before issuing the notice, which does not warrant interference by this Court.

5. Though several contentions have been urged by both sides with regard to compliance/non compliance of the mandatory prescribed by the CGST Act prior to issue of notice, without expressing any opinion on the merits/demerits of the rival contentions and in order to provide one more opportunity to the petitioner to submit his reply to the alleged demand made in Annexure-E, I deem it just and appropriate to dispose of this petition directing the petitioner to appear before respondent No.2 on 14.10.2024 and to proceed further in accordance with law.

6. In the result, I pass the following:

ORDER

i) Petition is hereby disposed of.

ii) Petitioner is directed to appear before respondent No.2 on 14.10.2024.

iii) *On that day, i.e., 14.10.2024, respondent shall furnish copies of notices/intimations/documents etc., which have come into existence prior to Annexure-E dated 30.07.2024 to the petitioner.*

iv) *Upon the respondents furnishing the said documents to the petitioner, petitioner shall submit reply to the same, pursuant to which respondent No.2 shall provide sufficient and reasonable opportunity to the petitioner and proceed further in accordance with law.*

v) *It is further directed that blocking/freezing of the Bank account of the petitioner in State Bank of India, Koramangala shall stand vacated except to the extent of alleged demand subject to the condition that the petitioner shall maintain minimum balance of Rs.64,49,778/- till disposal of proceedings by respondent No.2, who shall conclude the proceedings within a period of one month from 14.10.2024."*

4. As can be seen from the aforesaid order passed by this Court, the petitioner appeared before the respondent No.2 on 14.10.2024 and pursuant to which, the respondent No.2 issued the impugned communication dated 08.11.2024 (Annexure-H). The relevant portion of the same reads as under:

> *"3. In this regard, as explained above, recovery proceedings were initiated under Section 79 of the CGST Act by this office without any need of resorting to issuance of SCN under sec.73 or sec.74 of the CGST Act, after following the due procedure of the recovery proceedings as prescribed by the Central Board of Indirect Taxes and Customs ("CBIT") vide Instruction No.01/2022-GST dated January 7, 2022. Accordingly, as directed by the Hon'ble High Court of Karnataka in the aforesaid order, please find attached copies of following relevant documents issued by this office in respect of recovery proceedings of the interest amount:-*

i. *ASMt-10 dated 24.02.2023 with DIN 202570000009191B;*

ii. *Reminder emails dated 27.09.2023 and 05.10.2023.;*

iii. *Letter No.GEXCOM/ADT/CAG/21/2023-CGST-RANGE-E-DIV-8-COMMRTE-Bengaluru *E) dated 18.10.2023 of the Superintendent of Central Tax, Range-E, Division-8, CGST Commissionerate, Bengaluru East;*

iv. *DRC-13 dated 30.07.2024."*

5. It is an undisputed fact borne out from the material on record that, in pursuant of the aforesaid order dated 08.11.2024 (Annexure-H), the petitioner has not submitted its reply to the same and the respondents have not proceed further in the matter.

6. Under these circumstances, though several contentions have been urged by the petitioner in the present petition in support of its claim, having regard to undisputed fact that the petitioner has not submitted its reply / response to the impugned communication at Annexure-H dated 08.11.2024, I deem it just and appropriate to dispose of this petition, directing the petitioner to submit its reply / response to the impugned communication at Annexure-H dated 08.11.2024 and by further directing the respondent No.2 to consider the said reply and documents etc., produced by the petitioner and proceed further in accordance with law.

7. In the result, I pass the following:

O R D E R

a) Writ petition is hereby ***disposed of;***

b) The petitioner is hereby directed to submit its reply / response along with relevant documents if any to the impugned communication issued by the respondent No.2 at Annexure-H dated 08.11.2024 within a period of four weeks from today;

c) The respondent No.2, immediately upon receipt of reply / response made along with relevant documents if any as stated above, shall consider the same by providing a sufficient and reasonable opportunity of hearing to the petitioner and take appropriate decision or pass appropriate orders in accordance with law, within an outer limit of three months from the date of the petitioner submitting its reply / response as stated above."

9. Further, in the case of ***M/s. Galaxy International (supra)***, the Hon'ble Division Bench of Bombay High Court by following the decision of this Court in the case of *SJR Prime Corporation Limited (supra),* held as under:

*"**1.** Heard learned counsel for the parties.*

***2.** Rule. The rule is made returnable immediately at the request and with the consent of Mr. Mishra, the learned counsel for respondent nos.1 and 2. Mr. Shah, learned Senior Counsel appearing for the petitioner, states that the 3rd respondent has been served. For the order that we propose to make now, the presence of the 3rd respondent is not essential.*

3. *The petitioner challenges the notice dated 9 July 2024 issued under Section 79(1)(c) of the Central Goods and Services Tax Act, 2017 (CGST Act) on several grounds that are set out in the petition.*

4. *Upon consideration of the rival contentions, we are satisfied that the impugned notice is required to be set aside for the reasons briefly discussed hereafter.*

5. *Section 79 of the CGST Act, 2017 is concerned with the recovery of tax. Section 79(1)(c)(i) provides that the proper officer may, by a notice in writing, require any other person or who holds or may subsequently hold money for or on account of such person, to pay to the Government either forthwith upon the money becoming due or being held, or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from such person or the whole of the money when it is equal to or less than that amount.*

6. *Section 79(1)(c)(vii) of the CGST Act provides that where a person on whom a notice is served under sub-clause (i) proves to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default, at the time the notice was served on him, nor is the money demanded or any part thereof, likely to become due to the said person or be held for or on account of such person, nothing contained in this section shall be deemed to require the person on*

whom the notice has been served to pay to the Government any such money or part thereof.

7. *In the present case, the impugned notice though issued under Section 79(1)(c) was not addressed to the petitioner but the same is addressed to the Branch Manager of the 3rd respondent-Bank at Gurugram. The petitioner has stated that the petitioner does not have any bank account at Gurugram and the bank account referred to in the impugned notice is with the Mulund Branch. The petitioner has also pleaded that no amount is due and payable to M/s. Durga Madhab Panda (Urneed Online Retail) which is allegedly liable to pay GST dues to the extent of Rs.30.19 crores.*

8. *At this stage, we do not propose to examine the factual controversies or the rival factual contentions. Suffice to mention that Section 79 contemplates a notice to a person from whom the money is due to may become due to such person or holds or may subsequently hold money for or on account of such person to pay the amount to the Government, either forthwith upon money becoming due or being held or within the time specified in the notice not being before the money becomes due or is held.*

9. *Where such notice is served on a person, he can prove to the satisfaction of the officer issuing the notice that the money demanded or any part thereof was not due to the person in default or that he did not hold any money for or on account of the person in default at the time the notice was served on him nor is the money demanded or any part*

thereof, likely to become due to the said person or be held for or on account of such person.

10. *Thus, in this case, a notice had to be served upon the petitioner so that the petitioner would have an opportunity of proving to the satisfaction of the officer issuing the notice that no amount was due and payable by the petitioner to the person in default i.e. M/s. Durga Madhab Panda. No such notice was admittedly served upon the petitioner. On this short ground, the impugned notice dated 9 July 2024 is liable to be quashed and set aside.*

11. *We may also refer to the decision of the learned Single Judge of the Karnataka High Court in the case of S.J.R. Prime Corporation Pvt. Ltd. Vs. Superintendent of Central Tax Bengaluru, in which case as well, a notice was directly served to the bank and not to the person who was allegedly due and payable some amount to the person in default. The learned Single Judge noted that this was in breach of the mandatory procedure prescribed under the CGST Act and quashed the impugned notice without expressing any opinion on the merits or demerits of the rival contentions. Liberty was also granted to the respondents to serve a notice upon the petitioner so that the petitioner would have an opportunity to prove to the satisfaction of the officer issuing the notice that no amount was due and payable by the petitioner to the person in default.*

12. *Accordingly, we quash and set aside the impugned notice dated 9 july 2024 but leave it open to the respondents to serve a fresh notice on the petitioner should they wish to.*

13. *Mr. Shah, on instruction states that the petitioner's correct address is the one reflected in the cause title of this petition. Therefore, if any notice is served at the said address, the same would be sufficient notice.*

14. *Rule is made absolute in the above terms without any cost order."*

10. In view of the aforesaid facts and circumstances, I deem it just and appropriate to set aside the impugned order at Annexure-A and dispose of the petition by issuing certain directions.

11. In the result, I pass the following:

ORDER

(i) The petition is **allowed**.

(ii) The impugned order at Annexure-A dated 14.10.2025 passed by respondent No.1 is hereby quashed.

(iii) The petitioner is directed to appear before respondent No.1 on 05.01.2026, without awaiting further notice.

(iv) Liberty is reserved in favour of the petitioner to submit documents, pleadings etc., in support of

its claim for refund of the amount recovered from the petitioner-Company.

(v) Respondent No.1 shall provide sufficient opportunity and take appropriate decision and pass appropriate orders on the refund claim of the petitioner within a period of four weeks from 05.01.2026, without insisting upon separate application or proceedings.

(vi) In the event, respondent No.1 passes refund sanction orders in favour of the petitioner as stated supra, respondent No.1 is hereby directed to refund the amount payable together with applicable interest, if any, within a period of two weeks from the date on which respondent No.1 passes orders as stated *supra*.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

BMC
List No.: 2 Sl No.: 16