



IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 19TH DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

WRIT PETITION NO.200808 OF 2025 (T-RES)

BETWEEN:

M/S. HOTEL TOWN PLACE,
(REPRESENTED BY ITS PROPRIETOR
HANAMANT MALLAPPA BIRADAR)
SY NO.738 HISSA 1K, HOTEL TOWN PLACE,
ATHANI ROAD, VIJAYAPURA – 586 117.

...PETITIONER

(BY SRI VENKATANARAYANA G.M. AND SRI KIRAN KUMAR B
KALLUR, ADVOCATES)

AND:

1. THE DEPUTY COMMISSIONER OF
THE COMMERCIAL TAX (AUDIT-1),
VIJAYAPURA, TAKKE ROAD, VIJAYAPURA - 586 117.
2. THE JOINT COMMISSIONER
OF THE COMMERCIAL TAXES (APPEALS),
BELAGAVI DIVISION, BELAGAVI – 560 027.
3. STATE OF KARNATAKA
THROUGH PRINCIPAL SECRETARY TO GOVERNMENT
REVENUE DEPARTMENT (COMMERCIAL TAX)
BENGALURU KARNATAKA - 560 001.

...RESPONDENTS

(BY SRI MALLIKARJUN SAHUKAR, A.G.A.)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO
ISSUE A WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE



WRIT, ORDER OR DIRECTION DECLARING THE IMPUGNED ORDER IN APPEAL NO.GST-169/2024-25 DATED 06.11.2024, ANNEXED AS ANNEXURE-A PASSED BY THE RESPONDENT NO.2 AS BEING VOID ARBITRARY, ILLEGAL, VIOLATIVE OF PRINCIPLES OF NATURAL JUSTICE AND TO CONSEQUENTLY SET ASIDE THE SAME AND ETC.

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

CORAM: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE
ORAL ORDER

(PER: HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE)

Heard the learned counsel for the petitioner and the learned Additional Government Advocate appearing for the respondents.

2. The appeal filed by the petitioner before the appellate authority is not considered on the ground that the appeal is filed beyond 120 days from the date of the order passed by the Deputy Commissioner of Commercial Taxes.

3. Learned counsel for the petitioner submits that the co-ordinate Bench of this court has held that the appeal can be entertained beyond 120 days for the sufficient cause shown invoking Section 5 of the Limitation Act. The copy of the said order dated 28.02.2025 passed in WP No.200569/2025 is produced.



4. Learned Additional Government Advocate does not dispute the submission of the learned counsel for the petitioner.

5. Since the petitioner is similarly placed vis-à-vis the petitioner in W.P.No.200569/2025, the impugned order passed by the appellate authority has to be set aside.

6. Hence, the following:

ORDER

- i) The impugned order dated 06.11.2024 at Annexure-A is quashed.
- ii) The matter is remitted to the first appellate authority to consider the appeal on merits.

It is made clear that except the point of limitation, all other contentions are kept open to be adjudicated before the appellate authority.

**Sd/-
(ANANT RAMANATH HEGDE)
JUDGE**