



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT APPEAL NO. 2126 OF 2025 (T-RES)

BETWEEN:

1. THE ASSISTANT COMMISSIONER (HPU)
CGST COMMISSIONERATE, MYSORE,
OFFICE OF THE
PRINCIPAL COMMISSIONER
GST COMMISSIONERATE,
VINAYA MARGA, SIDDHARTHA NAGAR,
MYSORE - 570 011.
2. THE SUPERINTENDENT (PREVENTIVE AND
INTELLIGENCE)
CENTRAL TAX, GST COMMISSIONERATE,
VINAYA MARGA
SIDDHARTHA NAGAR,
MYSORE - 570 011.

...APPELLANTS

(BY SRI ARAVIND V. CHAVAN, ADVOCATE)

AND:

1. M/S. KUM INTERNATIONALS
SY.NO.439/2, 9TH KM,
BADANAGUPPE VILLAGE,
MYSORE ROAD, CHAMARAJANAGARA,
KARNATAKA - 571 313.





**NC: 2026:KHC:14943-DB
WA No. 2126 of 2025**

GSTIN: 29AAIFK8226C1ZA
(PARTNERSHIP FIRM REGISTERED UNDER
THE INDIAN PARTNERSHIP ACT, 1932,
REPRESENTED BY SRI A SRIGIRI PARTNER).

...RESPONDENT
(BY SRI HARISH B. NARASAPPA, SENIOR ADVOCATE;
SRI Y.C. SHIVAKUMAR, ADVOCATE)

THIS WRIT APPEAL IS FILED U/S 4 OF KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP No. 26885/2024 (T-RES) DATED 13.10.2025 AND PASS SUCH OTHER SUITABLE ORDERS AS THIS HONBLE COURT DEEMS FIT ON THE FACTS AND CIRCUMSTANCES OF THE CASE.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE K. V. ARAVIND

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE K. V. ARAVIND)

Heard Sri Aravind V. Chavan, learned Senior Standing Counsel for the appellants-Revenue and Sri Harish B. Narasappa, learned Senior Advocate appearing for Sri Y.C. Shivakumar, learned counsel for the respondent-Assessee.

2. Writ Appeal No.2126/2025 is filed under Section 4 of the Karnataka High Court Act, 1961, by the Revenue, impugning the order dated 13.10.2025 passed by the learned Single Judge



in Writ Petition No.26885/2024. Writ Appeal No.2137/2025 is filed under Section 4 of the Karnataka High Court Act, 1961, by the Revenue, impugning the order dated 13.10.2025 passed by the learned Single Judge in Writ Petition No.26515/2024.

2.1 The sequence of events, the facts involved, and the reasons assigned by the learned Single Judge in both the cases are identical. Learned counsel on both sides addressed common arguments. Since the issues involved are identical, both the appeals are disposed of by this common order.

3. The facts in Writ Appeal No.2126/2025 are referred to for the sake of convenience.

4. An inspection was conducted at the business premises of the respondent on 03.06.2024. In the course of the inspection, an ineligible claim of Input Tax Credit (ITC) was noticed. The respondent-assessee voluntarily reversed the ineligible ITC and thereafter paid interest and penalty on 10.06.2024.

4.1 In the meantime, summons was issued to the respondent under Section 70 of the Central Goods and Services Tax Act, 2017 (for short, 'the Act'). By letter dated 05.06.2024, the



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respondent sought extension of time. On 10.06.2024, the respondent submitted a letter requesting closure of the proceedings. The tax along with interest and penalty was paid under Section 74(5) of the Act. The statement of the representative of the respondent–assessee was recorded on 11.06.2024. Thereafter, the Proper Officer passed an order of closure under Section 74(6) of the Act on 27.08.2024.

4.2 The respondent filed a writ petition before this Court on 20.09.2024 seeking to set aside the closure order and for refund of the taxes paid, contending that the payments were made involuntarily due to coercion and pressure exerted by the appellant–authorities. Acknowledgments for payment of the interest and penalty were also issued by the authorities.

4.3 The learned Single Judge, holding that the payment of tax, interest, and penalty, as well as the letter submitted under Section 74(5) of the Act, were involuntary and made under pressure and coercion, set aside the closure order and directed the appellant–authorities to refund the claimed amount along with interest. However, the learned Single Judge observed that all contentions pursuant to the show-cause notice and



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adjudication proceedings are kept open and that no opinion has been expressed in that regard.

5. Sri Aravind V. Chavan, learned Senior Standing Counsel appearing for the appellants, submits that an inspection was conducted on 03.06.2024 and the ineligible ITC was detected. Before proceeding under Section 74 of the Act, summons under Section 70 of the Act was issued. The respondent, realizing the illegality in claiming ineligible ITC, reversed the same on the day of inspection, paid interest and penalty, and submitted a letter seeking closure of the proceedings under Section 74(5) of the Act.

5.1 It is submitted that the reversal of ITC, filing of the letter under Section 74(5), and payment of interest and penalty were made voluntarily. It is further submitted that after the closure order was passed under Section 74(6) of the Act, at such length of time, and particularly when the limitation available for initiating proceedings under Section 74 of the Act had not fully run out, it is not open to the respondent to challenge the closure order. It is contended that the learned Single Judge, without appreciating that the respondent had prevented the



Proper Officer from proceeding under Section 74 of the Act, has erroneously set aside the closure order and directed refund.

5.2 It is submitted that the statement recorded from the representative of the respondent and other attending circumstances clearly demonstrate that the respondent had availed ineligible ITC. It is further submitted that even assuming that coercion was exerted on 03.06.2024, the request for closure was made after seven days. The respondent had sufficient time to report such alleged coercion to the higher authorities.

5.3 It is contended that the mere allegation of coercion is not sufficient to accept such allegation and set aside the closure order. It is further submitted that if such baseless allegations are entertained, the very purpose of Sections 74(5) and 74(6) of the Act would stand defeated.

5.4 It is also submitted that the tax period involved is from January 2021 to February 2024. It is contended that the permissible actions pursuant to the inspection conducted on 03.06.2024 and the summons dated 04.06.2024, which would



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have been available had the request for closure not been made, ought to be made available if the order of closure is to be set aside.

6. Sri Harish B. Narasappa, learned Senior Advocate appearing for Sri Y.C. Shivakumar, learned counsel for the respondent, submits that an inspection was conducted on 03.06.2024 and that coercion and pressure were exerted on the representatives of the respondent to reverse the ITC. It is submitted that the search commenced on 03.06.2024 and concluded on 04.06.2024. The reversal of ITC was made during the period of search and in the presence of the authorities. It is further submitted that the reversal of ITC was made to avoid the threat of arrest.

6.1 The learned Senior Advocate further submits that the letter dated 10.06.2024 filed under Section 74(5) of the Act also indicates the above aspect, which has not been rebutted. It is submitted that the contents of the letter sufficiently indicate that the reversal of ITC was made at the instance of the officers and that the payment of tax was made only to buy peace and was not voluntary.



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6.2 The learned Senior Advocate further submits that the learned Single Judge, having considered the above aspects, rightly concluded that the reversal of ITC, the consequential payment of interest and penalty, and the filing of the letter under Section 74(5) of the Act were involuntary, and accordingly set aside the order of closure and directed refund with applicable interest. In support of his submission, the learned Senior Advocate relied on the judgment of the Delhi High Court in ***Lovelesh Singhal vs. Commissioner, Delhi Goods and Services Tax and others, (2024) 121 GSTR 422 (Delhi)***.

7. We have considered the submissions made by the learned Senior Standing Counsel for the Revenue and the learned Senior Advocate appearing for the respondent–assessee.

8. The dates and sequence of events are not in dispute. The inspection was conducted on 03.06.2024 and concluded on 04.06.2024. It is undisputed that the reversal of ITC, alleged to be ineligible, was made on 03.06.2024. At the time when the reversal was made, the inspecting authorities, i.e., the



appellants, were present at the premises of the respondent, and such reversal appears to have been made while the inspection was in progress.

8.1 Upon conclusion of the inspection, summons under Section 70 of the Act was issued on 04.06.2024. No doubt, extension was granted on 05.06.2024. On 10.06.2024, the respondent paid interest and penalty and also filed a letter on the same day requesting closure of the proceedings, as is permissible under Section 74(5) of the Act. Thereafter, on 11.06.2024, the statement was recorded, and the closure order was passed only on 27.08.2024.

8.2 The mere allegation of coercion and pressure for reversal of ITC is not sufficient. Such allegation requires corroborative evidence, and the surrounding circumstances must support the same.

8.3 The Madras High Court in ***Commissioner of Income-tax vs. MAC Public Charitable Trust and others, (2022 SCC OnLine Mad 8835)***, observed as under:

"62. It is settled position of law that the admission though important is not conclusive. It is



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open to the assessee who made the admission to show that it is incorrect as held by the hon'ble Supreme Court in Pullangode Rubber Produce Company Ltd. v. State of Kerala [1973] 91 ITR 18 (SC). The onus falls on the person who had earlier admitted to prove it wrong. Therefore, the statements could form the basis of assessment.

63. The statements given to the Assessing Officer under section 132(4) have legal force. Unless the retractions are made within a short span of time, supported by affidavit swearing that the contents are incorrect and it was obtained under force, coercion and by lodging a complaint with higher officials, the same cannot be treated as retracted."

8.4 The Hon'ble Supreme Court, in ***K.T.M.S. Mohd. and another vs. Union of India, (1992) 3 SCC 178***, held as under:

"34. We think it is not necessary to recapitulate and recite all the decisions on this legal aspect. But suffice to say that the core of all the decisions of this Court is to the effect that the voluntary nature of any statement made either before the Custom authorities or the officers of Enforcement under the relevant provisions of the respective Acts is a sine qua non to act on it for any purpose and if the statement appears to have been obtained by any inducement, threat, coercion or by any improper means that statement must be rejected brevi manu. At the same time, it is to be noted that merely because a statement is retracted, it cannot be recorded as involuntary or unlawfully obtained. It is only for the maker of the statement who alleges inducement, threat, promise etc. to establish that such improper means has been adopted. However, even if the maker of the statement fails to establish his allegations of inducement, threat etc. against the officer who recorded the statement, the authority while acting on the inculpatory statement of the



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maker is not completely relieved of his obligations in at least subjectively applying its mind to the subsequent retraction to hold that the inculpatory statement was not extorted. It thus boils down that the authority or any court intending to act upon the inculpatory statement as a voluntary one should apply its mind to the retraction and reject the same in writing. It is only on this principle of law, this Court in several decisions has ruled that even in passing a detention order on the basis of an inculpatory statement of a detenu who has violated the provisions of the FERA or the Customs Act etc. the detaining authority should consider the subsequent retraction and record its opinion before accepting the inculpatory statement lest the order will be vitiated. Reference may be made to a decision of the Full Bench of the Madras High Court in Roshan Beevi v. Joint Secretary to the Government of T.N., Public Deptt. to which one of us (S. Ratnavel Pandian, J.) was a party."

8.5 It has been held by the Hon'ble Supreme Court and the Madras High Court that when coercion or force is alleged to have been used in the course of search and inspection, the least that is expected is that a complaint be lodged before the higher authorities. In the present case, no such complaint was filed from 04.06.2024 to 10.06.2024. Such a course of action was also available even prior to the order of closure dated 27.08.2024. The respondent has maintained silence regarding the alleged coercion and involuntary declaration for more than two and a half months. The conduct of the respondent raises a serious doubt as to the genuineness of the allegation made.



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8.6 In that view of the matter, we are of the opinion that a mere allegation is not sufficient unless the facts and circumstances, and the actions of the authorities or the assessee, indicate the presence of such force or coercion. In the light of the above judgments, we hold that a mere allegation of coercion to admit liability is not sufficient to hold that the declaration was involuntary. The existence of coercion must be established by other attending circumstances. Such a requirement is necessary to maintain the sanctity of the declaration made under Section 74(5) of the Act. If due importance is not accorded to a declaration made under Section 74(5), it may lead to unintended adverse consequences.

8.7 If we may illustrate for the sake of understanding: where the Proper Officer is entitled to initiate action under Section 74, which provides an outer limit of five years, and the assessee makes a declaration under Section 74(5) and the proceedings are consequently closed under Section 74(6), if such disclosure is later questioned as involuntary after the expiry of the time limit prescribed under Sections 73/74 of the Act, it would lead to absurdity and an abuse of process.



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8.8 To avoid such unintended consequences, the Court should exercise restraint in interfering with an order of closure unless circumstances are demonstrated warranting such interference, which must be examined on a case-to-case basis.

9. Now we deal with the present case. The respondent had the opportunity to raise the grievance of coercion before the higher authorities after the conclusion of the inspection on 04.06.2024. Though the payment and declaration were made on 10.06.2024, the order of closure was passed only on 27.08.2024, nearly two and a half months thereafter. Nothing prevented the respondent from lodging such a complaint, as held in the judgments referred to above. The justification alleging that the declaration was involuntary on the ground that the admission was made to avoid the threat of arrest is, by itself, not sufficient.

9.1 The Hon'ble Supreme Court in the case of ***Vinod Solanki vs. Union of India and another [(2008) 16 SCC 537]*** examining the consideration of confession recorded by force, coercion and threat and retraction thereafter held as under:



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"37. With a view to arrive at a finding as regards the voluntary nature of statement or otherwise of a confession which has since been retracted, the court must bear in mind the attending circumstances which would include the time of retraction, the nature thereof, the manner in which such retraction has been made and other relevant factors. Law does not say that the accused has to prove that retraction of confession made by him was because of threat, coercion, etc. but the requirement is that it may appear to the court as such."

9.2 The presence of coercion, force or threat in filing the declaration reversing ITC is to be examined applying the above underlined test.

9.3 In the facts of the present case, we notice one aspect which may indicate coercion and which cannot be rejected outright. If the inspection was conducted on 03.06.2024 and summons was issued on 04.06.2024, the Proper Officer conducting the inspection would ordinarily have granted some breathing time to reverse the ITC availed.

9.4 The reversal made while the inspection was ongoing lends some substance to the contention of the respondent. If the reversal of ITC had already been made, the payment of interest and penalty would follow as a consequence. Similarly, the filing of the letter under Section 74(5) would also follow. Though, in



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the case on hand, the payment of interest and penalty and the filing of the letter under Section 74(5) may not, by themselves, be said to be involuntary, the act of reversal of ITC in the presence of the Proper Officer during the course of inspection lends support to the statement of the respondent.

9.5 The Delhi High Court in ***Lovelesh Singhal*** (*supra*), considering that the reversal of ITC was made in the course of the inspection and when the authorities were present, held that the same could not be regarded as voluntary. In the present case also, the reversal of ITC was made during the ongoing inspection and presumably in the presence of the inspecting authorities.

9.6 In that view of the matter, for the reasons assigned hereinabove, we find no justification to interfere with the finding of the learned Single Judge. For the reasons stated above, we arrive at the same conclusion that the reversal of ITC, alleged to be ineligible, was not voluntary.

10. Another aspect that requires consideration by this Court is the interest of the Revenue. The learned Single Judge has



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observed that the adjudication proceedings pursuant to the show-cause notice are kept open and that no opinion has been expressed in that regard. In our view, this observation by itself does not address the situation.

10.1 The inspection was conducted on 03.06.2024, summons was issued on 04.06.2024, and the statement was recorded on 11.06.2024. These proceedings would ordinarily have culminated in the issuance of a notice under Section 74 of the Act and further determination under sub-section (9) within the time limit prescribed under sub-section (10) of Section 74. To avoid such proceedings, sub-section (5) of Section 74 provides a privileged/concessional opportunity to the defaulting assessee to rectify the incorrectness, illegality, or irregularity. If payment of tax, interest, and penalty is made and a letter is filed, Section 74(6) empowers the Proper Officer to close the proceedings.

10.2 In the present case, the respondent availed the privileged/concessional remedy under Section 74(5) and thereby compelled the Proper Officer to close the proceedings under Section 74(6). By filing the letter under Section 74(5),



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the respondent prevented the Proper Officer from invoking or initiating proceedings under Section 74(1), which was otherwise available. After the lapse of a considerable length of time, the declaration made under Section 74(5) has been questioned as involuntary.

10.3 Once this Court accepts the case of the respondent that the declaration was involuntary and sets aside the order of closure made under Section 74(6), it becomes the duty of the Court to restore the position or proceedings as they stood prior to the filing of the declaration under Section 74(5). If such restoration is not made, it would result in preventing the Proper Officer from invoking Section 74 and would also permit the lapse of time under sub-section (10). If such a course is not adopted by the Court, the sanctity attached to Sections 74(5) and 74(6) would be liable to misuse and would act as a deterrent to invoking Section 74 of the Act.

10.4 It is not in dispute that, but for the declaration made under Section 74(5) and the closure order passed under Section 74(6), the Proper Officer was entitled to invoke Section 73/74 of the Act and conclude the determination as provided



therein. Having regard to the discussion made hereinabove and also in light of the finding that the reversal of ITC was not voluntary, the proceedings as they stood up to the stage of recording of the statement on 11.06.2024 is required to be restored. Further, the period from 11.06.2024 till the date of this order shall be excluded for the purpose of computing limitation under Section 73/74 of the Act.

11. Accordingly, we pass the following,

ORDER

- (i) Writ appeals are ***allowed-in-part***.
- (ii) The orders of the learned Single Judge are modified to the above extent.
- (iii) The appellant-authorities/proper officer is at liberty to proceed under Section 73 or 74 of the Act.
- (iv) The period from 11.06.2024 till date of this judgment is excluded for the purpose of Section 73/74 of the Act as the case may be.



We have not expressed any opinion on the merits of the case.

Pending I.A's stand disposed of.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(K. V. ARAVIND)
JUDGE**

DDU
List No.: 1 SI No.: 4