

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF MARCH, 2022

PRESENT

THE HON'BLE MRS.JUSTICE S.SUJATHA

AND

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

WRIT PETITION No. 4866/2021 (T-RES)

BETWEEN :

M/s. Manipal Technologies Ltd.,
3rd Floor, 16 330, Udayavani Building
Tile Factory Road
Press Corner, Manipal
Udupi -576104
Represented by
Prabhakar D Kamath.

... PETITIONER

(By Sri. Ravi Raghavan, Adv., and
Sri. Sudeshna Bannerjee, Adv.,)

AND :

1. State of Karnataka
Through its Principal Secretary
Finance Department
Vidhana Soudha
Bangalore-560 001.

2. Union of India
Through its Under Secretary
Ministry of Finance
Department of Revenue
North Block
New Delhi-110 001.
3. The Assistant Commissioner of State Tax
Local GST Office 280
Vanijya Terige Bhavana
Swami Vivekananda Road
4th Cross, Ajjarkad
Udupi-576101.
4. Assistant Commissioner of Central Tax (GST)
Vishnupriya Building
LBS MARG, Ajjarkad
Udupi-576 101.
5. Commissioner of Goods and Service Tax
7th Floor, Trade Centre
Bunts Hostel Road
Mangaluru-575 003. ...RESPONDENTS

(By Sri. Jeevan J Neeralgi, AGA for R1 & R2;
Smt. Vanita K.R. Adv. R4 & R5,)

This Writ Petition is filed under Articles 226 and 227 of the Constitution of India with a prayer to quash the impugned order dated 04.02.2020 at Annexure-A and etc.

This Writ Petition coming on for Preliminary Hearing this day, **Shivashankar Amarannavar J.**, passed the following;

ORDER

In this petition the petitioner has sought for the following reliefs:

- i. issue a writ of certiorari or any other writ, order or direction quashing the impugned order No. KAR/AAAR 14-A/2019-20 dated 04.02.2020 at Annexure – A;
- ii. hold that the Pattadar pass book cum title deed merits classification under Tariff Entry 4907 00 90 and Goods and Services Tax is to be paid at the rate of 12% and not at the rate of 18%;
- iii. any other writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and allow this petition with cost.

2. Heard Sri. Ravi Raghavan and Sri. Sudeshna Bannerjee, learned counsel for petitioner, Smt. Vanita K.R., learned counsel for respondent Nos. 4 and 5 and

Sri. Jeevan J Neeralgi, learned Additional Government Advocate for respondent Nos. 1 and 2.

3. Facts leading to the filing of this writ petition are that the petitioner is engaged in the business of printing books, magazines, calendars, diaries, bank passbooks, bank account opening forms and various other stationery items required for banking industry, educational institutions and various other customers. The petitioner is registered with Goods and Service Tax Authorities vide GST Registration No. 29AABCM516H1Z8. The Government of Telengana through Telengana State Technology Services Limited (hereinafter referred to as TSTS) invited bids for secured printing and delivery of Pattadar Pass Book cum Title Deed to all pattadars and land owners vide tender No. TSTS/CSCCLA-PPB-TD/2017 dated 23.02.2018 on behalf of the Chief Commissioner Land Administration (hereinafter referred to as CCLA). The

petitioner participated in the said tender process and being the successful bidder was awarded the contract. The petitioner arranged for the material required for printing and supply of Pattadar Pass Book cum Title Deed as per the agreement entered into with CCLA. The petitioner procured paper and also printed the Pattadar Pass Book cum Title Deed as per the prescribed security features and specifications. The data/content for printing was provided to the petitioner in electronic format by CCLA. The Pattadar Pass Book cum Title Deed is a document of title since it provides ownership details and will serve as document of title from a legal perspective. The petitioner supplied printed Pattadar Pass Book cum Title Deed vide invoice No. KAA8104318 dated 19.05.2018 charging IGST at 12% for SAC 9989. The petitioner filed an application for advance ruling in GST ARA-01 under Section 97 of the CGST Act and

KGST Act seeking ruling on “whether the ‘Pattadar Pass Book cum Title Deeds’ printed by the petitioner for supplies made to the Government of Telengana are classifiable as ‘Document of Title’ under HSN 4907 or as ‘passbook’ under HSN 4820”. The application made by the petitioner was disposed of by the Authority for Advance Ruling, Karnataka vide order dated 16.09.2019 wherein it was held that the Pattadar Pass Book cum Title Deed is not a document of title and accordingly classifiable under HSN 4820 attracting Goods and Service Tax at 18% instead of 12% as paid by the petitioner. The Authority for Advance Ruling, Karnataka held that document of title is the document registered with the authority under the Registrations Act, 1908 and the passbooks are mere reflections of the same; that pattadar passbook is not a document of title inasmuch as the record of rights in the office of the Mandal Revenue Officer is

the actual record of title and ownership of land; the passbook enable the passbook holder to avail several government schemes without having to resort to obtain certificates from the Revenue Officer at frequent intervals, the passbook and the title deed in the hand of the owner is not the ultimate document of title.

4. Aggrieved by the said order dated 16.09.2019 the petitioner filed an appeal before the Appellate Authority under Section 100 of the CGST Act/KGST Act. The Appellate Authority has passed the impugned order dated 04.02.2020 upholding that the Pattadar Pass Book cum Title Deed is not a document of title and not classifiable under Chapter Heading 4907 of the Customs Tariff Act, 1965 (for short CT Act) and appropriately classified under Chapter Heading 4820 of the CT Act. The petitioner received the said order on 10.07.2020. The petitioner has challenged the said

order dated 04.02.2020 passed by the Appellate Authority for Advance Ruling, Karnataka, under Section 100 of CGST Act/KGST Act in the present writ petition.

5. Learned counsel for the petitioner would contend that the Pattadar Pass Book cum Title Deed is not covered under any of the specific entries and hence its classification under Tariff Entry 4907 00 90 is appropriate. Pattadar Pass Book cum Title Deed is ultimately used by a Pattadar in relation to agricultural land and therefore the classification of such passbook as a document of title or otherwise has to be understood in the context of various land disputes. The Pattadar Pass Book cum Title Deed confers ownership of entitlement to certain financial interests or benefits named in such deed. As per the details in scope of work at page No. 20 of the tender document it is clear that Pattadar Pass Book cum Title Deed is a

document in the form of a small bound book containing the details of land owned by a person (pattadar). This Pass Book cum Title Deed is issued by Revenue Department and it contains details of land ownership, photo and change of ownership. The value of the land would exceed the cost of printing of the Pass Book cum Title Deed and the same can be classified under Chapter head 4907 of the CT Act. The Appellate Authority for Advance Ruling has completely disregarded the decisions relied upon holding that the decisions would not be relevant in the context of classification of the subject 'Pattadar Pass Book cum Title Deed' under CT Act as they were rendered in the context of settling land disputes. The activity undertaken by the petitioner is passbook printing keeping in view the security guidelines issued by the Government of Telengana as per the tender document. Without these details pass books cannot be

used for the purpose of recording transactions. Therefore, printing of pass books can not be considered incidental. It is his further submission that Pattadar Pass Book cum Title Deed can not be reduced to a mere pass book of general use and classified under Entry 4820. The Appellate Authority for Advance Ruling has failed to consider the provisions of the Telengala Rights in Land and Pattadar Passbooks Act, 1971, with its allied Rules in its entirety and has resorted to selective reading of provisions to conclude the classification of such Pattadar Pass Book cum Title Deeds under HSN 4820. He further argued that in several civil disputes the Courts have considered Pattadar Pass Book cum Title Deed as a document of title. He placed reliance on the following decisions:

- i. Rajeshwari Home Developers India (P) Ltd., Vs. The District Revenue Officer, Thoothukudi District and others, MANU/TN/0199/2019

- ii. Salapu Ramanna and others Vs. Salapu Sanyasi Rao, 2013 SCC Online AP 648
- iii. District Collector and others Vs. Harikishan Agarwal and others, 2001 SCC Online AP 831
- iv. Gurunath Manohar Pavaskar and others Vs. Nagesh Siddappa Navaigund and others, (2007) 13 SCC 565

6. Learned counsel for respondent Nos. 4 and 5 and the learned Additional Government Advocate for respondent Nos. 1 and 2 have supported the reasoning assigned by the Advance Ruling Authority and the Appellate Authority for Advance Ruling and submitted that the Pattadar Pass Book cum Title Deed is not a document of title and it is only a revenue record and the entries made in the revenue records cannot form the basis for declaration of title. They have further contended that the authority for Advance Ruling and the Appellate Authority for Advance Ruling

have rightly classified the Pattadar Pass Book cum Title Deed under Chapter head 4820. They further contended that the decisions relied upon by the learned counsel for the petitioner are rendered in civil property disputes and they will not help the petitioner in contending that the Pattadar Pass Book cum Title Deed is a title deed and it comes under the head 4907.

7. We have carefully considered the submissions made by the learned counsel for the parties and also gone through the records of the case.

8. The issue before us is regarding the classification of 'Pattadar Pass Book cum Title Deed' "Whether it is a document of title classifiable under HSN-4904 as claimed by the petitioner or it is an article of stationary classifiable under HSN-4820 as

held by the authority for Advance Ruling and the Appellate Authority for Advance Ruling.

9. Pattadar Pass Book cum Title Deed is a document in the form of a small bound book containing the details of land owned by a person (Pattadar), Photo identity of Pattadar and changes of ownership subsequent to the issue of Pattadar Pass Book cum Title Deed. This Pattadar Pass Book cum Title Deed is issued by Revenue Department under the law called Record of Rights Act (for short 'RR Act').

10. The activity of printing involves both supply of goods and services which is recognized as 'Composite supply' in terms of the definition under Section 2(30) of the CGST Act, 2017. Further Section 8 of the CGST Act, 2017 determines taxability of composite supply which states that 'a composite supply comprising two or more taxable supplies, one

of which is a principal supply, shall be treated as a supply of such principal supply' as goods or service would depend on which supply is the principal supply. The Circular No.11/11/2017-GST dated 20.10.2017 issued by the CBEC wherein it is clarified that in printing activity, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services. Rate of tax on supply of service is provided in Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017, as amended. The relevant portion of the Notification is extracted hereunder:

Sl. No.	Heading	Description of service	Rate (%)
27	Heading 9989	i) services by way of printing of all goods falling under Chapter 48 or 49[including newspapers, books (including Braille books), journals and periodicals], which attract CGST @ 6 percent or 2.5 percent or Nil, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer.	6
		ii) <i>Other manufacturing services; publishing, printing and reproduction services; materials recovery services, other than (i) above.</i>	9

11. As per the entry 27(i) of the above Notification, the services under Heading 9989 by way of printing of all goods falling under Chapter 48 or 49 [including newspapers, books (including Braille books), journals and periodicals], which attract CGST @ 6% or 2.5% or Nil, where only content is supplied by the publisher and the physical inputs including paper used for printing belongs to the printer, is

chargeable to Central Tax @ 6%. Therefore, classification of Pattadar Passbook cum Title Deed has to be determined as per CT Act and HSN.

12. The petitioner submitted that the product Pattadar Pass Book cum Title Deed is not covered under any of the specific entries and hence its classification under Tariff Entry 4907 00 90 is appropriate. The relevant portion of Chapter Heading 4907 of the CT Act is extracted hereunder:

Tariff Item	Description of goods	Unit
4907	<i>Unused postage, revenue or similar stamps of current or new issue in the country in which they have, or will have, a recognized face value,; stamp-impressed paper; banknote; cheque forms; stock, share or bond certificates and similar documents of title:</i>	
4907 00	Unused postage, revenue or similar stamps of current or new issue in the	

	country in which they have, or will have, a recognized face value; stamp-impressed paper; banknotes; cheque forms; stock, share or bond certificates and similar documents of title:	
4907 00 10	---Unused postage, revenue or similar stamps of current or new issue in the country in which they have, or will have, a recognized face value	Kg.
4907 00 20	--- Bank notes	Kg.
4907 00 30	--- Documents of title conveying the right to use Information Technology software	Kg.
4907 00 90	--- Other	Kg.

13. The Pattadar Passbook cum Title Deed is issued by the Government of Telangana under the Andhra Pradesh Rights in Land and Pattadar Pass Books Act 1971, as amended by Telangana Rights in Land and Pattadar Pass Books (Amendment) Act 2017, read with Andhra Pradesh Rights in Land and

Pattadar Pass Books Rules, 1989. This Pattadar Passbook is issued to owners, pattadars and occupant under Section 6A of the Telangana Rights in Land and Pattadar Passbook Act, 1971, (for short, Act, 1971) on an application upon payment of prescribed fee. Further, Section 6B of the Telangana Rights in Land and Pattadar Passbook Act, 1971 provides that on or after coming into force of the Andhra Pradesh Record of Rights in Land and Pattadar Pass Books (Amendment) Act, 1994 registering officer shall make entries relating to a transaction in land, such as purchase or sale, mortgage, gift, lease or otherwise in the title deed and pass book and further every pass book holder acquiring a right by succession, survivorship, inheritance, partition, Government patta, court decree, or otherwise shall get necessary entries in respect of such right recorded in the title deed and in the pass book by the Mandal Revenue Officer.

Section 6C of the Telangana Rights in Land and Pattadar passbook Act, 1971, provides that 'every loan granted by any credit agency on the Security of land or crop, every encumbrance of land for the grant of a loan and every repayment of such loan shall be recorded in the pass book by the concerned officer or authority under attestation by a competent officer of the credit agency and also made an entry of the discharge after the repayment of the loan. Therefore, petitioner submitted that the Pattadar Passbook cum title deed is essentially a book of records evidencing all transactions in the land to which the said passbook is attached to.

14. As per the Section 6D(1) of Telangana Rights in Land and Pattadar passbook Act, 1971, it is obligatory on the part of any person having interest or right in land to produce title deed and pass book before the registering authority appointed under the

Registration Act, 1908 along with the documents he proposes to get registered and it shall be obligatory on the part of such registering authority to make entry of every transaction of sale, gift purchase, mortgage, lease or exchange in such title deed and pass book at the appropriate place or places under his signature and official seal. Further, Section 6D(2) provides that notwithstanding anything contained in the Registration Act, 1908, the registering authority shall not register any document relating to a transaction of the nature referred to in sub-section(1) without the production of the title deed and pass book by both the parties to the transaction. From the above provisions, it can be inferred that transfer of title can be registered only on production of the title deed and pass book by transferor as well as transferee.

15. The petitioner contents that the Pattadar Passbook cum Title Deed cannot be classified under Chapter Heading 4820 as this chapter covers items such as registers, account books, notebooks etc. Chapter 4820 is extracted herein below for easy reference:

Tariff Item	Description
4820	<i>Registers, account books, note books, order books, receipt books, letter pads, memorandum pads, diaries and similar articles [exercise books], blotting pads, binders (loose-leaf or other), folders, file covers, manifold business forms interleaved carbon sets and other articles of stationery, of paper or paper board; albums for samples or for collections and book covers, of paper or paperboard</i>
<i>4820 10</i>	<i>- Registers, account books, note books, order books, receipt books, letter pads, memorandum pads, diaries and similar articles.</i>
<i>4820 10 10</i>	<i>--- Registers, account books</i>

4820 10 20	--- Letter pads
4820 10 90	--- Other
4820 20 00	- Exercise books
4820 30 00	- Binders (other than book covers), folders and file covers
4820 40 00	- Manifold business forms and interleaved carbon sets
4820 50 00	- Albums for samples or for collections
4820 90	- Other
4820 90 10	---Blotting paper cut to size
4820 90 90	--- Other

16. As per provision of Act 1971, that the Pattadar Pass Book cum Title Deed is a document containing the details of the land owned by a person. The entries in the Pattadar Pass Book are based on the Record of Rights which is prepared in terms of the provisions of the Act 1971. The legal provisions for issue of the Pattadar Pass Book were first introduced in the Amendment Act 11/1980 to the Andhra Pradesh Record of Rights in Land and Pattadar Pass Book, Act, 1971. Prior to this the 'pahani' was the most basic

textual land record in Telangana prepared by the Village Revenue Officer. It did not constitute a Record of Rights, but it recorded details like the owner of the land, how they came to be in ownership of the land, mutations and tenancies, The Amendment Act 1/89 to the Andhra Pradesh Record of Rights under Section 3(1) of the Act and for the regularization of unregistered transfers and alienations under Section 5-A of the Act. The said Act subsequently amended and in force in the combined State, as on 02.06.2014, has been adapted to the State of Telangana, under Section 101 of the Andhra Pradesh Reorganisation Act, 2014 vide. The Telangana Adaptation of Laws Order 2016.

17. The Act 1971 mandates that any person effecting transaction on the land such as sale or purchase or mortgage, such sale or purchase or mortgage document has to be registered before the

registering authority by paying registration fee and stamp duty. Such registered document will have fiduciary value and is considered as document of title. Further if any person effects any alienation or transfer of land without such registered document, either alienee or the transferee has to deposit registration fees and the stamp duty in accordance with the provisions of the Registration Act, 1908 and get the certificate from the Mandal Revenue officer. In such cases the certificate issued by the revenue officer is considered as document of title. Therefore, either a registered document or certificate issued from the Mandal revenue officer after paying registration fee and stamp duty is considered as document of title and on the basis of such document of title the revenue authority updates the Record Rights. The updated information in the Record of Rights is entered in the Pattadar Pass Book cum Title Deed. Therefore,

the Pattadar Passbook cum Title Deed is not a document of title as claimed by the petitioner and is not classifiable under Chapter Heading 4907 of the Customs Tariff Act. The Pattadar Pass Book cum Title Deed is classifiable under Chapter heading 4820 of the Customs Tariff Act, as held in by Appellate authority in the impugned order.

18. In ***Gurunath Manohar Pavaskar and Ors. V. Nagesh Siddappa Navalgund and Ors. AIR 2008 SC 901***, the Hon'ble Apex Court held that a revenue record is not a document of title. It merely raises a presumption in regard to possession. Presumption of possession and/or continuity thereof both forward and backward can also be raised under Section 110 of the Evidence Act.

19. In ***State of Himachal Pradesh V. Keshav Ram and others(1996) 11 SCC 257***, the Supreme

Court held that the entries made in revenue record cannot form basis for declaration of title.

20. In ***Corporation of the City of Bangalore V. M. Papaiah and another (1989) 3 SCC 612***, the Apex Court held that it is firmly established that the revenue records are not documents of title.

21. In ***G. Satyanarayana V. Government of Andhra Pradesh 2014(4) ALD 358***, the Hon'ble High Court of Andhra Pradesh in the context of Telangana Right in Land and Pattadar Passbook Act, 1971 held that even if the entries in the Record of Rights carry evidentiary value, that itself would not confer any title on the plaintiff on the suit land in question and the Plaintiff's have to show, Independent of those entries, that the plaintiffs predecessors had title over the property in question and it is that property which they have purchased. The Hon'ble High

Court while relying on decisions of Hon'ble Supreme Court held that the revenue records cannot be considered as document of title because of the following reasons:

- i) First, the properties may change hands from person to person from time to time. There may be lapse on the part of the persons who maintain the record in updating the transactions. A person to whom the land is lawfully conveyed cannot be denied title only on the basis of absence of entries to this effect in the revenue records.
- ii) Second, there may be unscrupulous revenue officials at village and taluk levels who, in collusion with private individuals, may manipulate entries.

22. The items in entries 4907-00, 4907-00-10 have a recognized face value. But, the 'Pattadar Pass Book' does not have a face value. Even it does not

have fiduciary or intrinsic value. It is a mere pass book printed with blank columns to be filled up by the revenue authorities.

23. In ***Rajeshwari Home Developers India (P) Ltd.***, supra the Madras High Court has held that, under the Andhrapradesh Records of Rights Act, the Pattadar Pass Book cum Title Deeds are more or less ultimate authority regarding the title of the property in respect of agricultural lands.

24. In ***Salapu Ramanna and others***, supra, the High Court of Andhrapradesh has held as under:

"5. At the interlocutory stage, the trial Court has to depend mostly upon the documentary evidence. The pattadar passbooks and title deeds issued in favour of the parties assume significance, in view of the presumption provided for under the Act. It may be true that the entries in 1-B

register constitute the basis for issuing a pattadar pass book. However, if the pattadar pass book is issued in respect of a piece of land, ignoring the entries in 1-B register, it would constitute a ground for the aggrieved party, to prefer appeal under Section 5-B of the Act. As long as the pattadar pass book remains, the presumption deserves to be drawn and the Court cannot ignore the same."

25. In ***District Collector and others***, supra, the High Court of Andhrapradesh has held as under:

"8. The record of rights, as is well known, does not create any title. In the State of Andhra Pradesh not only a person's name is entered in the record of rights maintained by the revenue authorities, but also a pattadar passbook is issued, which is considered to be a title deed."

26. Learned counsel for the petitioner relying upon the aforesaid three decisions would contend that the pattadar pass book is a document of title. In our considered view, the said decisions are rendered in civil disputes with regard to immovable properties and does not deal with the classification of pattadar pass book for the purpose of tax. Therefore, the said decisions will not help the case of the petitioner. Considering all these aspects, the authority for Advance Ruling and the Appellate Authority for Advance Ruling have rightly given a ruling that 'Pattadar Pass Book cum Title Deed' is classifiable under HSN 4820 and it is not a document classifiable under HSN 4907. We do not find any perversity or infirmity in the said ruling impugned.

In the result, we pass the following;

ORDER

Writ petition is dismissed.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

LRS