



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 320 OF 2026 (T-RES)

BETWEEN:

UMESH S.,
REP. BY ITS PROPRIETOR,
S/O SHIVALINAGAIH,
AGED ABOUT 56 YEARS,
NO.1860, 11TH A MAIN,
4TH BLOCK, JAYANAGAR,
BANGALORE - 560 041

...PETITIONER

(BY SRI. GANAPATI YADAV BHAT, ADVOCATE)

AND:

1. THE ASSISTANT COMMISSIONER OF
CENTRAL TAXES, WEST DIVISION - 1,
BANGALORE WESTCOMMISSIONERATE,
1ST FLOOR, BMTC BUS STAND,
BANGASHANKARI, BANGALORE - 560 070.
2. THE COMMISSIONER (APPEALS)
CENTRAL TAX, CENTRAL EXERCISE AND
SERVICE TAX MYSORE,
S1 AND S2, VINAYAMARG,
SIDDARTHANAGAR,
MYSORE - 570 011.

...RESPONDENTS

(BY SRI. ARAVIND V. CHAVAN, ADVOCATE)



THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER IN ORIGINAL PASSED BY THE RESPONDENT 1 DATED 28.03.2022 UNDER SECTION 73(1) OF THE FINANCE ACT 1994. THE ORDER IN ORIGINAL DATED 28.03.2022 BEARING ORDER OIO NO.63/2021-22 DIN-20220357YU000000B445 PASSED BY THE RESPONDENT IS ENCLOSED HERewith AND MARKED AS ANNEXURE-A AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

ORAL ORDER

The petitioner has sought for setting aside of the order in original passed under Section 73(1) of the Finance Act, 1994 dated 28.03.2022, copy of which is enclosed at Annexure-A. Petitioner has also sought for setting aside of the order in appeal dated 23.03.2023 passed by respondent No.2.

2. It is the case of the petitioner that the petitioner is specialised in contract services and supply of labour. It is further submitted that the provision of labour



work is subject to Reverse Charge Mechanism. It is submitted that the petitioner was served with a show-cause notice of 29.12.2020 and due to bona-fide reasons, the petitioner was not able to make out a reply and order in original came to be passed on 28.03.2022. Copy of the said order is enclosed at Annexure-A. It is submitted that the show-cause notice eventually leading to the order in original being passed, had based itself on reference to the provision of services in the income tax returns for the financial year 2014-15. It is submitted that only on the basis of the declarations made in the income tax return, without any independent verification, the order of adjudication has been passed.

3. Though contentions were raised assailing its validity before the appellate forum, the appeal came to be rejected as per the order at Annexure-B solely on the ground that the appeal was filed beyond the period of limitation prescribed.



4. Learned counsel for the petitioner submits that the matter is required to be disposed of taking note of the observations made in W.P.No.11154/2023 in order dated 03.07.2024. It is submitted that in all matters where service tax liability was fastened solely basing on declarations made in the income tax returns and Form-26AS, this Court has been remanding the matter for reconsideration.

5. The observations made in W.P.No.11154/2023 are extracted as hereunder:

"8. Upon suggestion of the Court, learned Additional Solicitor General has responded positively and has stated that a team of Officers who are competent to pass orders without reference to the territorial jurisdiction would be constituted and from amongst such team of officers designation would be made and cases allotted in order to pass necessary orders from the stage of post show-cause notice which would be done within a period of three months.



9. *Needless to state, a bare perusal of the petition reveals that the petitioner has raised various contentions which are required to be referred back for consideration by the appropriate authorities so that officers concerned may take note of the same while disposing off the petition at the stage of post show-cause notice.*

10. *The officers while disposing off the petition to keep in mind the following:*

- 1) *Whether petitioner do not qualify under Section 65B(44) of the Finance Act, 1994 ?*
- 2) *Whether services are covered under negative list ?*
- 3) *Whether services are covered under the exemption list under the Notification No.25/2012-ST dated 28.06.2012 or under any other applicable Notifications ?*
- 4) *Whether the person is liable to remit service tax in terms of Rule 2 (1) (d) read with applicable notification?*
- 5) *Whether claims are barred by limitation in terms of the law laid down by the Apex Court? "*



6. It is not in dispute that the order in appeal is passed without entering into the merits, but solely on the ground that the appeal is filed beyond the period prescribed and delay could not be condoned. The order of adjudication at Annexure-A itself requires reconsideration, taking note of the order dated 03.07.2024 passed in W.P.No.11154/2023 and connected petitions. Accordingly, the order in original at Annexure-A and the order in appeal at Annexure-B are set aside. Matter is remitted to the stage of reply to the show-cause notice.

7. The authority to take note of the observations made in the order dated 03.07.2024 passed in W.P.No.11154/2023 and connected petitions and in specific to observations made at paragraph No.10 of the said order, as may be applicable. All contentions are kept open.

8. Needless to state, petitioner is at liberty to make out fresh reply to the show-cause notice. Petitioner



to appear before the respondent No.1 on 16.02.2026
without waiting for further notice.

Accordingly, petition is ***disposed of***.

**Sd/-
(S SUNIL DUTT YADAV)
JUDGE**

MCR