



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 6651 OF 2026 (T-RES)

BETWEEN:

1. SHRI MAXIM SEBASTIAN
(PROPRIETOR
POWER NET DISTRIBUTION SOLUTIONS)
S/O SEBASTIAN
AGED ABOUT 50 YEARS
PAN NO.ANSPS0045C
4-76/62, 7-IDYA-2,
ATHIKARI ACROPOLIS,
1ST FLOOR, I DDYA, SURATHKAL,
KARNATAKA - 575 014.

... PETITIONER

(BY SRI. ARYAMAN GHULATI., ADVOCATE)

AND:

1. JOINT COMMISSIONER OF
CENTRAL EXCISE AND CENTRAL TAX
7TH FLOOR, TRADE CENTRE,
BUNTS HOSTEL ROAD, MANGALORE,
KARNATAKA - 575 003.
2. COMMISSIONER OF CENTRAL EXCISE AND
CENTRAL TAX,
7TH FLOOR, TRADE CENTRE,

Digitally signed
by VIJAYA P
Location: HIGH
COURT OF
KARNATAKA



BUNTS HOSTEL ROAD, MANGALORE,
KARNATAKA - 575 003.

3. COMMISSIONER OF CENTRAL GST AND
CENTRAL EXCISE,
NO.71, CLUB ROAD, BELAGAVI,
KARNATAKA - 590 001.

... RESPONDENTS

(BY SRI. ARAVIND CHAVAN., ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO (I) TO ISSUE A ORDER(S), DIRECTION(S), WRIT IN THE NATURE OF CERTIORARI CALLING FOR THE RECORDS AND TO QUASH SHOW CAUSE NOTICE BEARING C.NO. IV/09/169/2021 DATED 13.10.2021 (ANNEXURE-A), ISSUED BY THE 1ST RESPONDENT AND CONSEQUENT ORDER-IN-APPEAL ISSUED BY THE 3RD RESPONDENT ISSUED VIDE ORDER-IN-APPEAL NO.MLR-EXCUS-000-APP-VDJ-018-2025-26 BEARING DIN NO.20250657CT000077207D DATED 25.06.2025 (ANNEXURE-D) AND THE ORDER-IN-ORIGINAL ISSUED BY THE 2ND RESPONDENT VIDE SI.NO.MLR-EXCUS-000-NDN-ADC-VPS-31-2022-23 DATED 28.08.2023 (ANNEXURE-C), AS ARBITRARY, NON-EST AND VIOLATIVE OF PRINCIPLES OF NATURAL JUSTICE AND THUS IN THE FACTS AND CIRCUMSTANCES RENDER JUSTICE 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

Petitioner has challenged the validity of the order in original at Annexure-C, whereby the Authority has assessed the petitioner to service tax in terms of the provisions of the Finance Act, 1994. Petitioner has also challenged the order in appeal at Annexure-D whereby the appeal came to be rejected on the ground that the appeal was filed beyond the time limit prescribed for filing the appeal and the Authority could not entertain the appeal after the prescribed period.

2. Learned counsel for the petitioner would submit that the order is passed on the basis of inputs received from the Central Board of Direct Taxes and in such cases, this Court in W.P.No.11154/2023 had set aside the order and remitted the matter back for fresh consideration.

3. Petitioner has raised various contentions including that the proceedings were initiated after



prescribed period and also regarding eligibility of exemption, which requires reconsideration.

4. Sri. Aravind Chavan, learned counsel appearing for the revenue however would dispute such aspects.

5. It is to be noticed that this Court in W.P.No.11154/2023 and connected matters had considered the aspect of demand being raised under the Finance Act on the basis of inputs received from the Central Board of Direct Taxes as well as on the basis of declaration made under the Income Tax Returns and has laid down certain guidelines and remitted the matter for reconsideration.

6. It must be noticed that admittedly appeal has been dismissed without entering into the merits of the matter on the point that appeal was filed beyond the prescribed period of time. In light of the same, there would be no merger of the order-in-original with the order of the appellate Authority and accordingly, the validity of



the order-in-original can be looked into. Insofar as the order in original, this Court is required to take note of the observations made in W.P.No.11154/2023 and connected matters.

7. This Court while disposing of W.P.No.11154/2023 and connected petitions had made certain observations to be kept in mind by the concerned officials. The observations made from para-10 onwards reads as follows:-

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

- 1) Whether petitioners 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?*

11. *It is also clarified that disposal of present petitions must not be construed as having adjudicated any of the contentions including jurisdiction. All contentions of both sides on merits are kept open.*

12. *Needless to state, upon conclusion of proceedings, if any of the petitioners are still aggrieved, legal remedies are kept open. It is also clarified that wherever, replies to show-cause notice have not been made out, the same may be filed upon matter being relegated as noticed above.*

13. *Accordingly, the following:*

ORDER

In light of observations made above, the writ petitions relating to challenge to show-cause notice, such matters will stand relegated to the officers to be designated in terms of the observations made in para 8 above, at the same stage. Accordingly, such of the petitions at Sl.No.1 to 5 in Column No.1 of the table relating to challenge to show-cause notice are disposed off.



Insofar as such writ petitions as detailed in Column 2 of the table relating to challenge to Orders-in-Original, in light of the discussion made above, the Orders-in-Original stand set aside and the matters are relegated to the Officers to be designated to be reconsidered from the stage of show-cause notice. Accordingly, such of the petitions at Sl.No.1 to 35 in Column No.2 of the table relating to challenge to Orders-in-Original are disposed off.

The petitioners who are now relegated before the authorities concerned are at liberty to file their pleadings within a reasonable time as may be fixed by the Officers concerned. Wherever the matters are pending in appeal in light of the arrangement that is made, petitioners to file a memo for withdrawal of appeal and accordingly, the orders-in-original in question would also receive the same treatment, i.e. be set aside as per the directions made above.

Wherever demands have been made pursuant to the impugned orders, such proceedings are also set aside."

8. Taking note of the same, the order in original at Annexure-C is set aside. The matter is remitted to the



stage of reply to the show cause notice. Petitioner is at liberty to make out reply to the show cause notice.

9. The Authorities to take note of the observations made in the order dated 03.07.2024 passed in W.P.No.11154/2023 and connected petitions as extracted supra, in specific, to the observations at para-10 of the order as may be applicable. All contentions are kept open.

10. The petitioner to appear before respondent No.1 on 11.05.2026 without waiting for any notice.

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

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

VP