HC-KAR

NC: 2026:KHC:16607
WP No. 7323 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 7323 OF 2026 (T-RES)

BETWEEN:

SMT. S VEENA
PROPRIETRIX OF M/S. R K TRANSPORT AND
RAGHAVENDRA ENTERPRISES
W/O LATE SRI. M. KRISHNEGOWDA,
AGED ABOUT 55 YEARS,
NO. 29/2, 5TH CROSS,
OPPOSITE TO BBMP WARD OFFICE,
ASHRAM ROAD, HOODI,
MAHADEVAPURA POST,
BENGALURU- 560 048.

…PETITIONER

(BY SRI. RAGHAVENDRA B HANJER., ADVOCATE)

AND:

Digitally signed by VIJAYA P
Location: HIGH COURT OF KARNATAKA

1. THE ASSISTANT COMMISSIONER OF CENTRAL TAX
WEST DIVISION-5,
GST WEST COMMISSIONERATE,
1ST FLOOR, TTMC COMPLEX,
BMTC BUS STAND BUILDING,
BANASHANKARI, BENGALURU- 560 070.

2. THE SUPERINTENDENT OF CENTRAL TAX,
RANGE-DWD5, WEST DIVISION-5
GST WEST COMMISSIONERATE,
1ST FLOOR, TTMC COMPLEX
BMTC BUS STAND BUILDING,
BANASHANKARI, BENGALURU- 560 070.

…RESPONDENTS

(BY SRI. AKASH B SHETTY., ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE IMPUGNED SHOW CAUSE NOTICE BEARING SCN NO.148/2021-22 ST (DIN NO 20220457YU0000555B9A) DATED 13.04.2022 (ANNEXURE- A) ISSUED BY THE 1ST RESPONDENT, THE IMPUGNED EX PARTE ORDER-IN-ORIGINAL BEARING NO.59/2023-24-SERVICE TAX (DIN 20240557YU0000387633) DATED 30.05.2024 (ANNEXURE- B) PASSED BY THE 1ST RESPONDENT AND THE NOTICE BEARING FILE NO. GEXCOM/SCN/ST/1358/2022-CGST-RANGE-D-WEST-DIV-5-COMMRTE-BENGALURU(W) DATED 30.12.2025 (ANNEXURE- C) ISSUED BY THE 2ND RESPONDENT.

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 called in question the validity of the order in original dated 30.05.2024 at Annexure-B, whereby the Authority has adjudicated and raised demand regarding service tax liability.

2. It is the case of the petitioner that the authorities have initiated proceedings on the basis of information and declaration as made out in the income tax returns and that under similar circumstance where proceedings relating to taxable service under the provisions of the Finance Act are pursuant to information

from the income tax returns, this Court has been setting aside such orders and remitting the matter for fresh consideration.

3. Taking note of the observations made in W.P.No.11154/2023 and connected petitions, petitioner submits that the service of the petitioner is exempt in terms of the Notification No. 25/2012-ST. It is further submitted that the Authority has taken note of the consideration relating to sale of site which ought not to have been taken note of. It is further submitted that as the order is an ex-parte order, if the order is set aside and opportunity is granted, petitioner would meet the grounds raised in the show cause.

4. Learned counsel appearing for the Revenue submits that the order passed in W.P.No.11154/2023 is a matter of record and the Court may pass appropriate orders while reiterating that the petitioner ought to have participated in the proceedings.

5. Perused the order dated 03.07.2024 passed in W.P.No.11154/2023 and connected petitions.

6. This Court while disposing of the said petitions by remanding it to the stage of reply to the show cause notice 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."

7. Accordingly, the order-in-original at Annexure-B is set aside. Consequent to setting aside of the order in original, the recovery notice at Annexure-C is also set aside. The matter is remitted to the stage of reply to the show cause notice. 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.

8. Needless to state, the petitioner is at liberty to make out fresh reply to the show cause notice. Petitioner to appear before respondent No.1 on 22.04.2026 without waiting for any further notice.

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

SD/-
(S SUNIL DUTT YADAV)
JUDGE

VP