



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 15TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 8513 OF 2026 (T-RES)

BETWEEN:

1. SOMIL KUMAR MITTAL
S/O MAHENDRA KUMAR MITTAL
AGED ABOUT 35 YEARS
RESIDING AT KRSNA, 1102, 13TH CROSS
NEAR CAUVERY SCHOOL 2ND STAGE
INDIRANAGAR
BENGALURU - 560 038

... PETITIONER

(BY SRI. ADITYA BHAT., ADVOCATE)

AND:

1. UNION OF INDIA
THROUGH ITS SECRETARY
DEPARTMENT OF REVENUE
MINISTRY OF FINANCE
GOVERNMENT OF INDIA
CENTRAL SECRETARIAT NORTH BLOCK
NEW DELHI - 110 001
2. OFFICE OF THE PRINCIPLE
COMMISSIONER OF CENTRAL TAX
REP. BY COMMISSIONER
BENGALURU EAST COMMISSIONERATE
BMTC BUS STAND, OLD AIRPORT ROAD

Digitally
signed by
VIJAYA P
Location:
HIGH
COURT OF
KARNATAKA



DOMMALURU
BENGALURU - 560 071

... RESPONDENTS

(BY SRI. JEEVAN J. NEERALAGI, ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO I. ISSUE A WRIT OF CERTIORARI QUASHING SHOW CAUSE NOTICE BEARING NO. GEXCOM/SCN/ST/1677/2021-TECH-CGST-DIV-3-NO. COMMRT-BENGALURU(E); SCN NO.358 DATED 12.04.2021 ISSUED UNDER SECTION 73 OF THE FINANCE ACT, 1994, PRODUCED AT ANNEXURE - A AND ETC.

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

ORAL ORDER

Petitioner has sought for setting aside of the order-in-original dated 19.01.2023 at Annexure-B.

2. It is the case of the petitioner that the Authority has entered upon adjudication and raised demand of service tax pursuant to the proceedings under the Finance Act, 1994, solely relying upon the declaration of income reflected in the income tax returns and Form-26AS for the financial year 2015-16.



3. It is submitted that in identical circumstances where the authorities have proceeded for adjudication relating to service tax on the basis of information and declaration available in Form-26AS and declaration in the income tax returns, this Court in W.P.No. 11154/2023 and connected matters, has set aside the orders and remitted the matters for fresh consideration while making certain observations in Para 10 of the order passed in W.P.No. 11154/2023.

4. It is further submitted that the order passed is an ex-parte order and if petitioner is given an opportunity, petitioner would be able to demonstrate several grounds including that the petitioner was exempt from payment of service tax.

5. Perused the order in original. It is noticed that the order is passed on the basis of information available in Form-26AS as well as income tax returns.



6. This Court while disposing of W.P.No.11154/2023 by remanding it to the stage of reply to the show cause notice has 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' dated 19.01.2023 is 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. In light of setting aside of the order-in-original, the instructions stated to have been given by the respondent - authorities to the Bank to be rescinded forthwith.

8. Needless to state that the petitioner is at liberty to make out a fresh reply to the show cause notice. All contentions are kept open.

9. The petitioner to appear before respondent No.2 on 18.05.2026 without waiting for any notice.

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

SD/-
(S SUNIL DUTT YADAV)
JUDGE

VP