



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 9034 OF 2026 (T-RES)

BETWEEN:

1. SRI BAL KISHAN AGARWAL
PROP. OF M/S. HARI OM STORES
S/O FUL CHAND AGARWAL
AGED ABOUT 59 YEARS,
OPP. L AND T CITY APARTMENT,
NO.155, 4TH CROSS, 2ND STAGE,
AREKERE MICO LAYOUT,
B.G.ROAD, BENGALURU-560 076.

... PETITIONER

(BY SRI. ARUNA BHAT, ADVOCATE)

AND:

1. THE ASSISTANT COMMISSIONER
CENTRAL TAX, SOUTH DIV-4,
BENGALURU SOUTH COMMISSIONERATE,
C WING, 7TH FLOOR, KENDRIYA SADAN,
KORAMANGALA, BENGALURU-560 034
2. THE COMMISSIONER
CENTRAL TAX,
SOUTH DIV-4,
BENGALURU SOUTH COMMISSIONERATE,
C WING, 7TH FLOOR, KENDRIYA SADAN,
KORAMANGALA, BENGALURU-560 034.



3. MINISTRY OF FINANCE,
REP.BY ITS SECRETARY,
DEPARTMENT OF REVENUE,
NEW DELHI-11001.

... RESPONDENTS

(BY SRI. ARAVIND V. CHAVAN, ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI, ORDER OR DIRECTION QUASHING THE IMPUGNED ORDER IN ORIGINAL SI.NO.11/2022 SD-4 1756/22 DATED 31.05.2022 ANNEXURE-A PASSED BY THE RESPONDENT NO.1 FOR THE FINANCIAL YEAR 2015-16 (ASSESSMENT YEAR 2016-17) VIDE RECOVERY INTIMATION DATED 27.02.2026 FILE NO. NO.GEXCOM /TECH/MISC/2219/2025-CGST-DIV-SD-4-COMMRTE 127/26, ALLEGING SERVICE TAX DEMAND AMOUNT OF RS.13,83,992/-, PENALTY UNDER S.78 RS.13,83,992 AND PENALTY UNDER S.77 RS.30,000/- TOTALLY AMOUNTING TO RS.27,97,984/- ALONG WITH INTEREST UNDER S.75 OF THE FINANCE ACT, 1994 TILL THE DATE OF ACTUAL PAYMENT AND ETC.

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

ORAL ORDER

Sri.Aravind Chavan, learned counsel accepts notice for the respondents.

1. The petitioner has called in question the validity of the Order-in-Original at Annexure-A and submits that



the authority while adjudicating the proceedings in terms of the Finance Act, 1994, in order to raise demand regarding service tax has relied on the inputs received from the Central Board of Direct Taxes ('CBDT', for short).

2. It is submitted that in similar cases, the authorities in order to raise demand of service tax have relied on the inputs received from CBDT.

3. This Court in W.P.No.11154/2023 and connected matters dated 03.07.2024 has set aside an identical order and remitted the matter back for reconsideration in terms of the observations made in the said order.

4. Learned Counsel for petitioner submits that the proceedings are *ex parte* and the petitioner did not have opportunity to make out reply.

5. It is further submitted that the question of raising any demand relating to service tax is inapplicable as petitioner carries on business of retail trading of provisions



and grocery items in a Provision Store. As it involves sale of goods, the question of invoking liability of service tax does not arise.

6. Perused the order passed in W.P.No.11154/2023 and connected matters dated 03.07.2024. Para 10 of the order reads as under:

"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 ? "*



7. In light of the contentions raised and observations made in W.P.No.11154/2023 and connected matters dated 03.07.2024, the Order-in-Original at Annexure-A is set aside and the matter is remitted to the stage of reply to the show-cause notice.

8. Petitioner to appear before the respondent no.1 without further notice on 18.05.2026.

9. Accordingly, the petition is disposed of.

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

NP