



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO.11491 OF 2026 (T-RES)

BETWEEN:

SRI ROOPESH KUMAR GIDDEGOWDA,
AGED ABOUT 49 YEARS,
S/O K G GIDDEGOWDA,
KATTAAHALI,
MARAGOWDANA HALLY POST,
HOLE NARASIPURA TALUK
HASSAN 573211.

...PETITIONER

(BY SRI RAVI SHANKAR S V AND SRI PRANAY SHARMA
ADVOCATES)

AND:

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA

1. THE ASSISTANT COMMISSIONER OF CENTRAL TAX,
LAKSHMIPURAM DIVISION,
MYSURU COMMISSIONERATE,
1ST FLOOR, VINAYA MARGA,
SIDDHARTHA NAGAR,
MYSURU 570 011.
2. THE SUPERINTENDENT OF CENTRAL TAX,
EAST RANGE,
HASSAN CENTRAL GST DIVISION,
2ND STAGE, D.M.HALLI,
VIJAYANAGAR, HASSAN 573 210.
3. ASSISTANT COMMISSIONER OF CENTRAL TAX,
HASSAN CENTRAL GST DIVISION,



2ND STAGE, D.M.HALLI,
VIJAYANAGAR, HASSAN 573 210.

...RESPONDENTS

(BY SRI ARAVIND CHAVAN, ADVOCATE FOR R1 TO R3)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO I) DIRECT IN THE NATURE OF A WRIT OF CERTIORARI QUASHING ORDER IN ORIGINAL DATED 26.12.2023 PASSED BY RESPONDENT NO.1 I.E., THE ASSISTANT COMMISSIONER OF CENTRAL TAX BEARING DIN NO. 20231257YY000081862E. COPY OF THE ORDER IN ORIGINAL BEARING DIN NO. 20231257YY000081862E DATED 26.12.2023 IS ENCLOSED AND MARKED AS ANNEXURE-A. II) DIRECT IN THE NATURE OF A WRIT OF CERTIORARI QUASHING THE RECOVERY NOTICE ISSUED BY THE RESPONDENT NO.2 I.E THE SUPERINTENDENT OF CENTRAL TAX DATED 02.01.2024 VIDE DIN BEARING NO.20240157YY000000F57F. COPY OF THE RECOVERY NOTICE DATED 02.01.2024 IS ENCLOSED AND MARKED AS ANNEXURE - A1. AND ETC.

THIS PETITION, COMING ON FOR FRESH MATTERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

ORAL ORDER

The petitioner has called in question the validity of the order-in-original at Annexure-A.

2. The petitioner submits that the order passed is an exparte order without benefit of reply to the show cause notice. It is further submitted that the authority has relied on adjudication regarding service tax under the provisions of



Finance Act by looking into the details of the income tax returns. It is submitted that in identical matters this Court has set aside the order remitting the matter for fresh consideration in light of the observations made in the order dated 03.07.2024 passed in W.P.No.11154/2023 and connected matters and taking note of the observations made in the said order, matter may be remitted.

3. Sri Aravind Chavan, learned counsel appearing for the Revenue submits that the petitioner ought to have participated in the proceedings and having failed to do so has suffered an order. However, he would leave it to the Court to pass appropriate orders taking note of observations made in W.P.No.11154/2023 and connected petitions.

4. Perused the order-in-original. It is clear from the observation made at paragraph No.2 that the authority has proceeded on the basis of inputs received and declarations made under the provisions of the Income Tax Act. It is further noticed that the order passed is an exparte order as the petitioner has not made out any reply to the show cause notice.



5. The petitioner has also asserted that the income of the petitioner was rental income, which has been construed to be a component of service arising out of works contract.

6. In light of such contentions raised and also taking note of observations made in W.P.No.11154/2023 and connected petitions, matter requires to be disposed of.

7. 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."

8. Accordingly, the order-in-original at Annexures-A, A1 and A2 are 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 paragraph No.10 of the order as may be applicable. All contentions are kept open.

9. Needless to state that the petitioner is at liberty to make out a fresh reply to the show cause notice.

10. The petitioner to appear before respondent No.1 on 18.05.2026 without waiting for any notice.

11. Accordingly, the petition is disposed of.

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

MD
List No.: 1 Sl No.: 11