



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 13213 OF 2020 (T-RES)

BETWEEN:

M/S SANCHETI GLOBAL INC.,
A REGISTERED PARTNERSHIP FIRM
HAVING ITS OFFICE AT
NO. G/46, MEI ROAD, 2ND STAGE
INDUSTIRAL SUBURB,
YESHWANTHPUR, BANGLURU-560022
REPRESENTED BY ITS MANAGING PARTNER
SHRI. S M HEM PRAKASH.

...PETITIONER

(BY SRI. S. M. HEM PRAKASH, PARTY IN PERSON)

AND:

1. THE UNION OF INDIA
THROUGH ITS REVENUE SECRETARY
DEPARTMENT OF REVENUE
MINISTRY OF FINANCE
128-A/NORTH BLOCK
NEW DELHI-110 001.
2. GOODS AND SERVICES TAX COUNCIL
OFFICE OF THE GSTC
THROUGH IT SECRETARY
TOWER - II, 5TH FLOOR
JEEVAN BHARTI BUILDING
NEW DELHI-110 001.
3. COMMISSIONER OF CENTRAL TAX
AUDIT - II, COMMISSIONERATE
JSS TOWERS, 100 FEET RING ROAD
BANASHANKARI III STAGE

Digitally signed
by VIJAYA P
Location:
HIGH COURT
OF
KARNATAKA



BANGALURU-560 085.

4. SUPERINTENDENT OF CENTRAL TAX
MG-2, CIRCLE II, OFFICE OF
THE COMMISSIONER OF CENTRAL TAX
AUDIT II, COMMISSIONERATE
JSS TOWERS, 100 FEET RING ROAD
BANASHANKARI III STAGE
BANGALURU-560 085.

5. SUPERINTENDENT OF CENTRAL TAX
EMWDI RANGE
NORTH WEST DIVISION
NORTH WEST COMMISSIONERATE
2ND FLOOR, SUTH WING
BMTc COMPLEX, SHIVAJINAGAR
BANGALURU - 560 051.

...RESPONDENTS

(BY SRI. MADANAN PILLAI, CGC FOR R1 AND R2;
SRI. JEEVAN J NEERALGI, ADVOCATE FOR R3 TO R5)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO DIRECT AGAINST
THE RESPONDENT BY QUASHING THE IMPUGNED SERIAL
NO.9(ii) OF NOTIFICATION NO. 8/2017-INTERGRATED TAX
(RATE), DATED 28.06.2017 ANNEXURE-A ISSUED BY R-1
CORRIGENDUM DTD.30.06.2017 (ANENXURE-B) ISSUED BY R-
1 AND SERIAL NO.10 OF NOTIFICATION DTD.28.06.2017
ANNEXURE-C ISSUED BY THE R-1 BY DECLARING THAT SAME
LACKING LEGISLATIVE COMPETENCY, ULTRA VIRES TO THE
INTEGRATED GOODS AND SERVICES TAX ACT 2017 AND
HENCE UNCONSTITUTIONAL.



THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, 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 Sl.No.9(ii) of Notification No.8/2017-Integrated Tax (Rate) dated 28.06.2017 at Annexure A, as well as the Corrigendum dated 30.06.2017 at Annexure B and Sl.No.10 of the Notification No. 10/2017-Integrated Tax (Rate) dated 28.06.2017 at Annexure C issued by respondent No. 1 by declaring that the same are ultra vires to Integrated Goods and Services Tax Act, 2017 and unconstitutional. Consequently, the petitioner has sought for setting aside of the show cause notice at Annexure-D.

2. The facts made out are that the petitioner is an importer and has called in question the levy on the basis of reverse charge mechanism by virtue of the impugned notifications. Petitioner submits that the identical legal



issue has already been adjudicated upon and decided in the case of ***Union of India v. Mohith Minerals Pvt. Ltd. - 2022 (61) GSTL 257 (SC)*** and in light of the notifications impugned herein already having been set aside by the Apex Court, petition may be allowed.

3. The said legal position is not controverted by the other side.

4. It is to be noticed that the subject matter of the dispute is encapsulated by the Apex Court in the case of ***Mohith Minerals (supra)*** at Paragraph No.6 which reads as follows:

"6. The respondent filed a writ petition before the Gujarat High Court challenging Notification No. 8 of 2017 and Notification No. 10 of 2017 (collectively referred as "impugned notifications") on the grounds that: (i) the notifications are ultra vires the IGST Act and the CGST Act; (ii) Customs duty is levied on the component of ocean freight and the levy of IGST on the freight element in the course of transportation would amount to double taxation; (iii) though in the case of high sea sales,



the importer is a different entity yet this regime would tax the respondent as the importer and the recipient of service; (iv) in the case of a CIF contract, the supply of service of transport of goods in a vessel is by a foreign shipping line located in a non-taxable territory to an exporter located in a non-taxable territory by a vessel outside the territory of India which cannot be subject to tax under the IGST Act; (v) Notification No. 10 of 2017 transgresses the provisions of Section 5(3) of the IGST Act as instead of the "recipient" mentioned therein, the "importer" as defined in Section 2(26) of the Customs Act, is made liable to pay tax; and (vi) Entry 9(ii) and Para 2 of Notification No. 8 of 2017, read with Notification No. 10 of 2017, creates a deeming fiction and a separate taxable event which is not permissible in law."

5. Taking note of the observations made by the Apex Court in the case of ***Mohith Minerals (supra)*** at Paragraph Nos. 147 and 148, it would be appropriate to dispose of the petition. Paragraph Nos. 147 and 148 of the said judgment read as follows:



"147. We are in agreement with the High Court to the extent that a tax on the supply of a service, which has already been included by the legislation as a tax on the composite supply of goods, cannot be allowed.

Part E
(E) Conclusion

148. *Based on the above discussion, we have reached the following conclusion:*

(i) *The recommendations of the GST Council are not binding on the Union and States for the following reasons:*

(a) *The deletion of Article 279-B and the inclusion of Article 279(1) by the Constitution Amendment Act, 2016 indicates that Parliament intended for the recommendations of the GST Council to only have a persuasive value, particularly when interpreted along with the objective of the GST regime to foster cooperative federalism and harmony between the constituent units.*

(b) *Neither does Article 279-A begin with a non-obstante clause nor does Article 246-A*



state that it is subject to the provisions of Article 279-A. Parliament and the State Legislatures possess simultaneous power to legislate on GST. Article 246-A does not envisage a repugnancy provision to resolve the inconsistencies between the Central and the State laws on GST. The "recommendations" of the GST Council are the product of a collaborative dialogue involving the Union and the States. They are recommendatory in nature. To regard them as binding edicts would disrupt fiscal federalism, where both the Union and the States are conferred equal power to legislate on GST. It is not imperative that one of the federal units must always possess a higher share in the power for the federal units to make decisions. Indian federalism is a dialogue between cooperative and uncooperative federalism where the federal units are at liberty to use different means of persuasion ranging from collaboration to contestation.

(c) *The Government while exercising its rule-making power under the provisions of the CGST Act and the IGST Act is bound by the recommendations of the GST Council.*



However, that does not mean that all the recommendations of the GST Council made by virtue of the power Article 279-A(4) are binding on the legislature's power to enact primary legislation.

(ii) *On a conjoint reading of Sections 2(11) and 13(9) of the IGST Act, read with Section 2(93) of the CGST Act, the import of goods by a CIF contract constitutes an "inter-State" supply which can be subject to IGST where the importer of such goods would be the recipient of shipping service.*

(iii) *The IGST Act and the CGST Act define "reverse charge" and prescribe the entity that is to be taxed for these purposes. The specification of the recipient—in this case the importer—by Notification No. 10 of 2017 is only clarificatory. The Government by notification did not specify a taxable person different from the recipient prescribed in Section 5(3) of the IGST Act for the purposes of reverse charge.*

(iv) *Section 5(4) of the IGST Act enables the Central Government to specify a class of registered persons as the recipients, thereby*



conferring the power of creating a deeming fiction on the delegated legislation.

(v) *The impugned levy imposed on the "service" aspect of the transaction is in violation of the principle of "composite supply" enshrined under Section 2(30) read with Section 8 of the CGST Act. Since the Indian importer is liable to pay IGST on the "composite supply", comprising of supply of goods and supply of services of transportation, insurance, etc. in a CIF contract, a separate levy on the Indian importer for the "supply of services" by the shipping line would be in violation of Section 8 of the CGST Act."*

6. Eventually, the Apex Court has upheld the order of the High Court in part. The Apex Court has held that the tax on a supply of service which has already been included by the legislation as a tax on the composite supply of goods is impermissible and levy of fresh tax would be in violation of Section 8 of the CGST Act. To such extent, the order of the High Court was upheld. Accordingly, in the present case as well, in light of the law laid down by the Apex Court, the show cause notice at Annexure-D is set



aside and the proceedings initiated would die a natural death.

7. Accordingly, the writ petition is ***disposed of***.

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

VP