



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 39604 OF 2025 (T-RES)

BETWEEN:

APS LOGISTICS
A PARTNERSHIP FIRM
REPRESENTED BY ITS PARTNER
MR. MOHD SHAKEEL AHMED
SON OF LATE MOHD. ASLAM
AGED ABOUT 45 YEARS
RESIDING AT 408B, 4TH FLOOR
ENDECO S ALLADIN COLONY
OPPOSITE VOLTAS COMPANY
CZECH COLONY, SANATHNAGAR
HYDERABAD, TELANGANA - 500 018
EMAIL: SRIVATSALAW@GMAIL.COM
MOB : +91 89714 70774
REGISTERED UNDER PARTNERSHIP ACT.

...PETITIONER

(BY SRI. PRADYUMNA HEJIB., ADVOCATE)

AND:

1. THE JOINT COMMISSIONER
OF CENTRAL TAX
GST EAST COMMISSIONERATE
5TH FLOOR, TTMC-BMTC BUILDING
OLD AIRPORT ROAD, DOMLUR
BENGALURU 560 071.
2. THE COMMISSIONER
OF SERVICE TAX (APPEALS)
4TH FLOOR, TMC-BMTC BUILDING
OLD AIRPORT ROAD
DOMLUR, BENGALURU.



3. THE ASSISTANT COMMISSIONER
OF CENTRAL TAX
ARREARS RECOVERY CELL
GST EAST COMMISSIONERATE
4TH FLOOR, TMC-BMTC BUILDING
OLD AIRPORT ROAD, DOMLUR
BENGALURU.

...RESPONDENTS

(BY SRI. JEEVAN J NEERALGI., ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER-IN-ORIGINAL SL. NO. 68/JC/B-EAST/2021 DATED 01.09.2021, PASSED BY THE FIRST RESPONDENT ANNEXURE-A1.

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

The petitioner has called in question the validity of the order-in-original at Annexure-A dated 01.09.2021. The petitioner has also challenged the order-in-appeal at Annexure-B.

2. It is the case of the petitioner that the respondent authority has taken note of the inputs received from the Central Board of Direct Taxes, Government of India and more particularly has taken note of the gross income as made out in



the income tax returns relating to the income for the period from October, 2015 to March, 2017. It is stated that the authorities had construed the income as declared in the returns as amount received from services and accordingly has levied service tax.

3. It is the case of the petitioner that the order-in-original has chiefly relied on the inputs from the Income Tax returns.

4. It is submitted that the Co-ordinate Bench in W.P.No.11154/2023 by order dated 03.07.2024 had passed certain observations and several orders are passed, whereby the adjudication under the service tax solely based on inputs from income tax returns have been set aside and the matter is remitted for further consideration. The observations made in para 9 and 10 reads as hereunder:

9. Needless to state, a bare perusal of all the petitions reveals that the petitioners have raised various contentions which are required to be referred back for consideration by the appropriate authorities so that officers concerned may take note of the same while disposing off the petitions at the stage of post show-cause notice.



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 ?*

5. It is also not in dispute that the order-in-appeal is rejected on the sole ground that statutory deposit has not been deposited.

6. Taking note of the observations made in W.P.No.11154/2023 dated 03.07.2024, the order-in-original at Annexure-A is set aside despite the order by the Appellate Authority while noticing the order of dismissal by the Appellate Authority is not on merits but due to non-payment of statutory deposit. The matter is remitted to the stage of reply to the



show-cause notice. The authorities to take note of the observations made in W.P.No.11154/2023 and connected petitions as extracted supra, in specific to the observations made at para 10 of the order. All contentions are kept open.

7. Needless to state, the petitioner is to make out reply to the fresh show-cause notice. Petitioner to appear before respondent no.1 without waiting for notice on 25.02.2026.

Sd/-
(S SUNIL DUTT YADAV)
JUDGE

NP