HC-KAR

NC: 2026:KHC:11636
WP No. 3049 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 3049 OF 2026 (T-RES)

BETWEEN:

SMT. SHANTAMMA,
AGED ABOUT 42 YEARS,
PROPRIETOR OF M/S. MITRA SECURITY
AND ALLIED SERVICES,
NO.7, PRATHAM NILAYA, 3RD CROSS,
NEAR B.K. LAYOUT, KODIPALYA,
KENGERI, BENGALURU - 560 060.
SERVICE TAX REG NO.DSIPS0060RSD001.

...PETITIONER

(BY SRI. VISHWANATH K., ADVOCATE)

AND:

1. ASSISTANT COMMISSIONER OF CENTRAL TAX,
WEST DIVISION 7,
GST WEST COMMISSIONERATE,
BMTC BUILDING, BUS STAND COMPLEX,
FIRST FLOOR, BANASHANKARI,
BENGALURU - 560 070.

2. DEPUTY COMMISSIONER OF CENTRAL TAX,
WEST DIVISION 7,
GST WEST COMMISSIONERATE,
BMTC BUILDING, BUS STAND COMPLEX,
FIRST FLOOR, BANASHANKARI,
BENGALURU - 560 070.

...RESPONDENTS

(BY SRI. ARAVIND V. CHAVAN, ADV. FOR R1 AND R2)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING AND SETTING ASIDE ANNEXURE A i.e., SHOW CAUSE NOTICE F.NO.GEXCOM/AE/VRFN/TPD/1100/2020-CGST-BWEST-DWD7 HAVING DIN 20201257YU000000F5FC DATED 28.12.2020 AND ETC.,

THIS PETITION COMING ON FOR PRELIMINARY HEARING, 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 correctness of the Order-in-Original, whereby after adjudication demand of service tax has been raised. The petitioner submits that the order of adjudication is based on inputs received from the Central Board of Direct Taxes. It is submitted that the authority while raising the demand for service tax has relied on the declaration made in the income tax returns and while noticing that the service tax returns is not filed, has adjudicated the matter.

2. Learned counsel for the petitioner submits that due to *bona-fide* reasons, petitioner did not respond to the show-cause notice and relies on the medical records at

Annexure-E. It is further contended that the services rendered by the petitioner are supply of manpower and as regards such services, the tax is to be paid under Reverse Charge Mechanism by the person who avails services. Reliance is placed on the notification dated 20.06.2012 vide Notification No.30/2012-Service tax.

3. While drawing attention to the table at Item No. 8, it is pointed out that the obligation to pay service tax is only on the person who receives such manpower supply and there would be no liability on the service provider. Reliance is also placed on the directions passed in W.P.No.11154/2023.

4. A perusal of the order of adjudication would indicate that the authority in the absence of any reply and noticing that the petitioner had not filed service tax return has proceeded to adjudicate the matter. Perused the order dated 30.07.2025 passed in W.P.No.11154/2023.

5. 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."

6. The order of adjudication itself requires reconsideration taking note of the order dated 03.07.2024 passed in W.P.No.11154/2023 and connected petitions, the relevant portions of which are extracted hereinabove.

7. In light of the above and in light of the contention raised by the petitioner as noticed above, the Order-in-Original at Annexure-B is set aside. All recovery

proceedings are set aside. Matter is remitted to the stage of reply to the show-cause notice. 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, the observations at para-10 of the order as may be applicable. All contentions are kept open.

8. Needless to state, petitioner is at liberty to make out reply to the show-cause notice. Petitioner to appear before respondent No.1 on 23.03.2026 without waiting for any fresh notice.

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

SD/-
(S SUNIL DUTT YADAV)
JUDGE

MCR