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. 4937 OF 2026 (T-RES)

BETWEEN:

1. M/S MADESHWARAN CHANNAPPA
TRADE NAME - M/S SARAVANA CONSTRUCTIONS
HAVING OFFICE AT
NO. 104, GROUND FLOOR,
SHIVAKRUPA, 7TH MAIN,
3RD CROSS, NEAR AKSHARA SCHOOL,
AGS LAYOUT, AREHALLI,
BENGALURU - 560 061.
REPRESENTED BY ITS PROPRIETOR,
SHRI MADESHWARAN CHANNAPPA.

... PETITIONER

(BY MS. LOCHANA S BABU., ADVOCATE)

AND:

1. THE DEPUTY COMMISSIONER OF CENTRAL TAX
O/O THE DEPUTY COMMISSIONER OF CENTRAL TAX,
WEST DIVISION-5
BENGALURU WEST COMMISSIONERATE,
1ST FLOOR, TTMC COMPLEX,
BMTC BUS STAND, BANASHANKARI,
BENGALURU - 560 070

2. THE ASSISTANT COMMISSIONER OF CENTRAL TAX
O/O THE ASSISTANT COMMISSIONER

OF CENTRAL TAX,
WEST DIVISION -5,
BENGALURU WEST COMMISSIONERATE,
1ST FLOOR, TTMC COMPLEX,
BMTC BUS STAND, BANASHANKARI,
BENGALURU - 560 070

… RESPONDENTS

(BY SRI. AKASH B SHETTY., ADVOCATE)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDER-IN-ORIGINAL DATED 18.10.2022 BEARING OIO NO. 89/2022-23-SERVICE TAX AND DIN 20221057YU000000FB59 PASSED BY THE R-2 (ANNEXURE-A) 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

Petitioner has sought for setting aside of the order in original dated 18.10.2022 at Annexure-A, as also the show cause notice at Annexure B.

2. It is the case of the petitioner that the respondent - Authority has passed the order-in-original adjudicating and raising a demand for service tax in terms of the Finance Act, 1994. It is the assertion of the

petitioner that the services provided are exempt and accordingly the authority ought not to have proceeded for adjudication. It is submitted that petitioner due to bonafide cause was not able to place reliance on the exemption notification and if provided with an opportunity, petitioner would demonstrate the absence of liability to pay service tax due to exemption. It is further submitted that the proceedings have been initiated on the basis of inputs received from the income tax department.

3. It is submitted that this Court in identical circumstances where demand for service tax was raised on the basis of inputs received from the income tax department and declarations made in the income tax returns, has passed certain directions and on parity, in the present matter also, directions as passed in W.P.No.11154/2023 may be passed and proceedings be reopened with an opportunity for the petitioner to make out reply to the show cause notice.

4. Perused the order dated 03.07.2024 passed in W.P.No.11154/2023 and connected petitions.

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. In light of the above, the order-in-original at Annexure-A is 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 para-10 of the order as may be applicable.

7. Needless to state that the petitioner is at liberty to make out a fresh reply to the show cause notice. Petitioner to appear before respondent No.1 on 24.03.2026 without waiting for any notice. All contentions are kept open.

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

SD/-
(S SUNIL DUTT YADAV)
JUDGE

VP