HC-KAR

NC: 2026:KHC:17143
WP No. 9047 of 2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 9047 OF 2026 (T-RES)

BETWEEN:

MR. FAZIL AHMED
S/O SHARIFF SAB,
AGED ABOUT 59 YEARS,
RESIDING AT NO.14, 6TH MAIN,
3RD CROSS, MARUTHI LAYOUT,
BTM LAYOUT 1ST STAGE,
BENGALURU - 560 029.

...PETITIONER

(BY SRI. NAVEED AHMED, ADVOCATE)

AND:

1. THE PRINCIPAL COMMISSIONER OF CENTRAL TAX
BENGALURU SOUTH COMMISSIONERATE,
BENGALURU.

2. THE DEPUTY COMMISSIONER OF CENTRAL TAX
SOUTH DIVISION-4, C WING,
7TH FLOOR, KENDRIYA SADAN,
KORAMANGALA,
BENGALURU - 560 034.

3. THE ASSISTANT COMMISSIONER
OF CENTRAL TAX,
SOUTH DIVISION-4,
BENGALURU SOUTH COMMISSIONERATE,
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 COMMUNICATION LETTER BEARING FILE NO.GEXCOM/TECH/ MISC/2219/2025-CGST-DIV-SD-4-COMMRTE 113/26 DATED 27.02.2026 ISSUED BY THE 3RD RESPONDENT AND THE CONSEQUENTIAL ORDER-IN-ORIGINAL NO.98/2022 SD-4 DATED 26-07-2022 PASSED BY THE 3RD RESPONDENT IS AS BEING ILLEGAL, ARBITRARY AND IN VIOLATION OF THE PRINCIPLES OF NATURAL JUSTICE VIDE ANNEXURE A AND B RESPECTIVELY 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

Learned counsel, Sri. Jeevan J. Neeralgi accepts notice for the respondents.

2. The petitioner has called in question the validity of the Order-in-Original at Annexure-B and has also sought for setting aside of the consequential proceedings. It is the case of the petitioner that the respondent authority has relied on the inputs from the Central Board of Direct Taxes and upon declaration made in the income tax return, for adjudicating and raising a demand of service tax in terms of the Finance Act, 1994.

3. It is submitted that in identical circumstances, this Court noticing that the proceedings are initiated solely on the basis of declaration under the income tax returns remitting the matter for reconsideration, taking note of observations made in W.P.No.11154/2023. It is further submitted that the petitioner would place material and meet the grounds raised in the show-cause notice if opportunity is granted. It is submitted that due to bonafide reasons the petitioner could not participate in the proceedings and the order passed is an ex-parte order.

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. Accordingly, the Order-in-Original at Annexure-B 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. All contentions are kept open.

7. Needless to state that the petitioner is at liberty to make out a fresh reply to the show-cause notice. The petitioner to appear before respondent No.3 on 27.04.2026 without waiting for any notice.

8. I.A.No.1/2026 is allowed and the petitioner is dispensed with production of certified copy of Annexure-B as the same is printout obtained from the portal.

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

SD/-
(S SUNIL DUTT YADAV)
JUDGE

MCR