



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 22ND DAY OF AUGUST, 2024
BEFORE
THE HON'BLE MR JUSTICE S SUNIL DUTT YADAV
WRIT PETITION NO.19205 OF 2022 (T-RES)

BETWEEN:

M/S SAPTHAGIRI CLEANING SERVICES
NO.7, 1ST CROSS, 24TH MAIN,
PUTTENAHALLI,
J.P. NAGAR 7TH PHASE,
BENGALURU – 560 078.

A PROPRIETORSHIP CONCERN

(REP. BY SHRI SRINIVASULU NAIDU RAJU
PROPRIETOR)

...PETITIONER

(BY SRI PRADYUMNA HEJIB, ADVOCATE (THROUGH VC)

AND:

1. THE JOINT COMMISSIONER OF CENTRAL TAX
AND G.S.T. BENGALURU SOUTH COMMISSIONERATE
P.B. NO.5400, C.R. BUILDING,
QUEENS ROAD, BENGALURU – 560 001.

2. THE DEPUTY COMMISSIONER OF CENTRAL TAX
SOUTH DIVISION-6, B.M.T.C.-T.T.M.C. BUILDING
BANASHANKARI, BENGALURU – 560 078.

...RESPONDENTS

(BY SRI ARAVIND V. CHAVAN, ADVOCATE FOR R1 AND R2
(THROUGH VC)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND
227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A
WRIT IN THE NATURE OF MANDAMUS OR ANY OTHER WRIT





QUASHING THE SHOW CAUSE NOTICE BEARING SL.NO.172/2021-22(DIN NO.20210457YV0000624066) DATED 27.04.2021 (ANNEXURE-A) ISSUED BY THE RESPONDENT NO.1 AND OR RESTRAIN THE SAID AUTHORITY FROM ADJUDICATING THE SAME.

THIS WRIT 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

This writ petition has been filed seeking for issuance of appropriate writ to quash the show cause notice dated 27.04.2021 issued by the 1st respondent and to restrain the said Authority from adjudicating the same.

2. The facts in brief are that the petitioner is stated to be the contractor engaged in Municipal Solid Waste Management in parts of Bangalore in terms of the work orders issued by the Bruhat Bengaluru Mahanagara Palike (BBMP). It is stated that on the basis of the data received from the Central Board of Indirect Taxes and taking note of the declaration of value of services declared by the assessee in the Income Tax Returns in Form - 26AS and noticing that the assessee had not filed ST - 3



returns, the matter was taken up and the assessee was called upon to state reasons for non-payment of service tax and to furnish relevant documents.

3. The show cause notice at Annexure-A dated 27.04.2021 has been issued and the premise on which the show cause notice has been issued is that the assessee which is carrying on cleaning services is to be construed as providing services which fall within the service tax net.

4. Learned counsel for the petitioner submits that the function that the assessee is performing fall within the Mega exemption notification of 12/2012 as amended by notification No.25/2012.

5. It is contended that despite amendment to notification No.12/2012, what would continue to be exempted is services provided to a local authority by way of solid waste management. It is contended that in terms of the supply order issued by the BBMP dated 10.03.2016, what was required to be supplied was auto tipper with



drivers and helpers as also Paurakarmikas with specific obligation of garbage collection. Attention is drawn to the conditions and it is submitted that the responsibility is not only supplying transport equipments such as Auto Tippers but also supply of manpower in the form of Paurakarmikas with obligation to perform garbage collection. Accordingly, it is submitted that the work being performed would continue to fall within the notification of 25/2012-ST.

6. It is further contended that in terms of the D.O. Letter F.No.334/15/2014-TRU, dated 10.07.2014, the Government of India, Ministry of Finance has clarified regarding the amendment made to entry at Sl. No.2.2.2(ii) while reiterating that solid waste management would continue to remain exempted but the exemption would not be extendable to other services such as consultancy, designing etc. not directly connected with the specified services. Accordingly, it is submitted that in light of the notification of 25/2012-ST read along with D.O. letter dated 10.07.2014 at Annexure-J, the Authority had



no jurisdiction to issue notice as resorted to. It is further submitted that issuance of notice is barred by limitation prescribed and accordingly, show cause notice itself ought to be set aside.

7. Sri. Aravind V. Chavan, learned counsel appearing on behalf of the revenue would contend that the contentions raised are factual and not merely legal and if that were to be so, the question of this Court entering into such adjudication at the stage of show cause notice may not be appropriate. It is submitted that the matter may be remanded to the Authority granting further opportunity to the petitioner to make out his reply to the show cause notice and the Authority would take a considered decision by taking note of the reply to be furnished as also the contentions as raised in the writ petition.

8. After hearing the matter for sometime, the nature of contentions raised by the petitioner require not only interpretation of the work order which would be factual but also a detailed consideration of the exemption



sought for by placing reliance on the notification No. 25/2012-ST.

9. The contention whether supply of man power involved in garbage collection as well as auto tipper with condition imposed in the supply order fall within the activity of solid waste management, is a matter that requires factual appreciation after taking note of the terms of the supply order. Such exercise cannot be made by this Court in exercise of writ jurisdiction.

10. Accordingly, the matter is remanded to the stage post show cause notice. Petitioner is also at liberty to make out reply to the show cause notice within a period of 30 days from the date of receipt of certified copy of this order. All contentions of the petitioner are kept open including as referred to by this Court in the discussion made above as well as grounds made out in the writ petition. Needless to state that the petitioner is directed to make out a comprehensive reply to enable the Authority to take a considered decision. Petitioner also to place on



record all necessary documents to enable the Authority to record a finding as to the nature of work being done and service rendered to the local authority by the petitioner, as well as to enable recording a finding as to whether the activity performed falls within the exemption notification as contended above.

11. Accordingly, the petition is disposed off.

**Sd/-
(S SUNIL DUTT YADAV)
JUDGE**

VP