IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE THIRTIETH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT PETITION NO: 9023 OF 2026

Between:

M/s. Pradeep Kumar Makam, S/o. M.Thirupathaiah, Aged about 46 years, R/o. D.No.4-35, Lingal Village AND Mandal,Nagarkurnool District, Telangana

...PETITIONER

AND

1. The Commissioner of Central Tax, GST AND Central Excise Commissioner ate, Hyderabad.
2. The Assistant Commissioner of Central Tax, GST AND Central Excise Division, Nagarkurnool / Mahabubnagar Division.
3. The Branch Manager, State Bank of India, Lingal Branch, Nagarkurnool District, Telangana.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue an appropriate Writ, direction, or Order, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in issuing the Proceedings No.O.R.No.31/2022-23-Adjn (ADC)-ST (DIN. 202311566YQ0000444AB7). Order in Original No.64/2023- 24-Adjn (ADC)-ST dated 23-11-2023 by Respondent authorities confirming total demand of RS.58,83,028/- towards Service Tax for the financial years 2016-17 and 2017-18 (up to June 2017) and also imposed a penalty of RS.58,83,028/- under Sections 77 and 78 of the Finance Act, 1994 doubling the liability without considering the exemptions available for Government is illegal, arbitrary, though the services provided by the petitioner was exempts as per the Notification No.25/2012-Service Tax, dated 20-06-2012 and passed without proper service of the order and contrary to the provisions of the Finance Act, 1994 and exemption notifications issued there under with a direction to the respondents verify the Notification No.25/2012-Service Tax, dated 20-06-2012 as the services provided by the petitioner was exempts before taking steps to collect service tax demand along with interest and penalties for the period 2016-17 and 2017-18.

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the respondents verify the Notification No.25/2012-Service Tax, dated 20-06-2012 as the services provided by the petitioner was exempts before taking stets to collect service tax demand along with interest and penates for the period 2016-17 and 2017-18.

Counsel for the Petitioner: SRI M.V.S.SAI KUMAR
Counsel for the Respondent Nos.1 & 2: SRI DOMINIC FERNANDES, SENIOR STANDING COUNSEL FOR CBIC
Counsel for the Respondent No.3: --

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT PETITION No.9023 of 2026

Dated: 30.03.2026

Between:

M/s. Pradeep Kumar Makam

...Petitioner

and

The Commissioner of Central Tax,
GST & Central Excise Commissionerate,
Hyderabad,
and 2 others.

...Respondents

ORDER:

Learned counsel Sri M.V.S.Sai Kumar appears for the petitioner.

Sri Dominic Fernandes, learned Senior Standing Counsel for Central Board of Indirect Taxes and Customs (CBIC), appears for respondents No.1 and 2.

2. The petitioner has assailed the order-in-original dated 23.11.2023 passed by respondent No.1 confirming the demand of Rs.58,83,028/- towards service tax for the financial years 2016-17 and 2017-18 (up to June 2017) and also penalty of equivalent amount under Sections 77 and 78 of the Finance Act, 1994 (hereinafter referred to as, "the 1994 Act"), in the present writ petition filed on 23.03.2026.

3. Learned counsel for the petitioner submits that the services provided by the petitioner, who is a contractor, are exempted under Notification No.25/2012-Service Tax, dated 20.06.2012. The impugned order has been passed without proper service of the adjudication order and contrary to the provisions of the 1994 Act without taking into consideration the exemption to which the petitioner is entitled under the Notification No.25/2012-Service Tax, dated 20.06.2012. The respondents have invoked the extended period of limitation under Section 73 of the 1994 Act on grounds of suppression of facts, though the petitioner had acted under the *bona fide* belief that he was not required to pay the tax being covered by the Notification No.25/2012-Service Tax, dated 20.06.2012. The petitioner has approached this court only upon issuance of recovery notice upon the petitioner's bank

without service of the adjudication order or providing a reasonable opportunity to file an appeal.

4. Learned Senior Standing Counsel for CBIC submits that from a perusal of the impugned order it appears that the petitioner had neither paid any service tax on the gross amount charged for provision of the taxable services nor filed ST-3 returns to verify the taxability of the income declared by the service provider in the income tax returns filed for the financial year 2016-17. The order-in-original shows that the petitioner had not paid the service tax due on the total turnover during the said period. Therefore, the show cause notice was issued on 28.04.2022 alleging contravention of Sections 67, 68, 69 and 70 of the 1994 Act read with Rules 4, 6 and 7 of the Service Tax Rules, 1994. However, the petitioner did not respond to the show cause notice nor submitted a reply nor requested to give time for submission of reply. Opportunity of personal hearing was given by the respondents vide letters dated 21.12.2022, 12.10.2023 and 30.10.2023 which were sent to the petitioner's registered address by speed post. However, the petitioner did not avail the opportunity of personal hearing also. Therefore, the adjudicating officer proceeded to confirm the demand after scrutiny of the information received from the Income Tax

Department for the relevant financial year. It is further submitted that pursuant to introduction of Section 66D of the 1994 Act i.e., negative list of services, though services have been rendered by the noticee and consideration has been received from the service recipients for the services rendered, but no documents/agreements, invoices etc., were provided by the petitioner to show that services fall under the negative list or the services are exempted by the Mega Exemption notification. Learned Senior Standing Counsel for CBIC further submits that the petitioner has not approached the appellate forum by invoking the appellate remedy within the stipulated time. Therefore, the writ petition is not maintainable in view of the decision rendered in **Assistant Commissioner (CT) LTU, Kakinada, v. Glaxo Smith Kline Consumer Health Care Limited**[1].

5. We have heard the learned counsel for the parties and taken note of the materials available on record.

6. The writ petition has been filed after more than two years of the passing of the order-in-original. A perusal of the order-in-original shows that not only the show cause notice, but the opportunity of personal hearing was also given to the petitioner by sending notices to

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[1] (2020) 19 SCC 681

the petitioner's registered address by speed post. But, the petitioner failed to avail the said opportunity. The present writ petition has been filed much after the appeal period. Therefore, it is hit by the ratio of the Apex Court in the case of **Glaxo Smith Kline Consumer Health Care Limited** (supra). Therefore, we are not inclined to entertain the writ petition.

7. The writ petition is accordingly dismissed. There shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

SD/- S.MALLIKARJUNA RAO
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. One CC to SRI M.V.S.SAI KUMAR, Advocate [OPUC]
2. One CC to SRI DOMINIC FERNANDES, SENIOR STANDING COUNSEL FOR CBIC [OPUC]
3. Two CD Copies

PSK.
TKS

HIGH COURT

DATED:30/03/2026

ORDER

WP.No.9023 of 2026

HIGH COURT FOR THE STATE OF TELANGANA
20 APR 2026
★ DESPATCHED ★

DISMISSING THE WRIT PETITION
WITHOUT COSTS

5 NT
8/4/26.