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.5680 OF 2026

DATED: 31.07.2026

Between:

Chiluka Ramchandra Reddy

... Petitioner

AND

The Union of India and four others

... Respondents

ORDER:

Mr. L. Harish, learned counsel appears for the petitioner.

Ms. D. Pallavi, learned Senior Standing Counsel for Central Board of Indirect Taxes and Customs appears for respondent Nos.2 to 5.

2. The petitioner has approached this Court with the following prayer:

> "...to issue a writ or order more particularly in the nature of mandamus declaring the Order in Original No. 42/2023- 2024-Adjn (ADC)-ST, dated 20-11-2023 is null and void, illegal, arbitrary and consequently quash the said order."

3. The impugned order-in-original dated 20.11.2023 relates to the tax period 2016-17 and 2017-18 (up to June, 2017) in respect of which an earlier proceeding culminated in the order-in-original dated 24.11.2023 wherein the demand of Rs.8,96,909/- was only confirmed. *Vide* order dated 12.08.2024, the demand was set aside and refund of the amount deposited during the appeal was ordered. Thereafter, a garnishee

notice impugned herein was issued on 13.01.2026 in respect of the petitioner's bank account for recovery of alleged dues relying upon another order-in-original dated 20.11.2023. The petitioner contends that the demand of service tax for the period 2016-17 and 2017-18 has already been adjudicated and set aside in appeal. Therefore, the respondent Department cannot initiate recovery proceedings for the same. The impugned order-in-original dated 20.11.2023 was passed without proper service of show cause notice and without affording any opportunity of hearing and in violation of the principles of natural justice. Therefore, the petitioner has approached this Court.

4. In the counter affidavit of the respondents, the impugned proceedings have been sought to be justified stating that they arise independently from show cause notice dated 18.10.2021 for which the assessee did not submit any reply nor responded to the personal hearing notices, which were returned undelivered. Therefore, the adjudicating authority proceeded to decide the case based on available records. Accordingly, demand of Rs.72,03,798/- was confirmed under Section 73(2) of the Finance Act, 1994 (for short 'the Act'), along with interest under Section 75, penalty equal to tax amounting to Rs.72,03,798/- under Section 78, penalty of Rs.10,000/- under Section 77(2) and late fee of Rs.60,000/- under Section 70 of the Act read with Rule 7(c) of the Service Tax Rules, 1994. The impugned order clearly records the

suppression of taxable receipts and non-compliance with statutory provisions. Therefore, recovery proceedings have been initiated by the impugned garnishee notice dated 13.01.2026 under Section 87 of the Act.

5. Learned counsel for the respondent Department, however, has not been able to justify as to how for the same period, when adjudication had ended in favour of the assessee in appeal proceedings, independent proceedings for the alleged suppression of taxable receipts could be initiated and adjudicated upon. It, therefore, appears that the impugned proceedings have been initiated for the same tax period in respect of which the petitioner succeeded at the appellate stage and a refund was also granted. The findings of the appellate authority show that the petitioner had undertaken works exclusively to Government Departments, which are fully exempted from payment of service tax under Mega Exemption Notification No.25/2012-S.T., dated 20.06.2012. Further, the petitioner is eligible for Small Scale Industries (SSI) exemption under Notification No.33/2012-S.T., dated 20.06.2012 in respect of the works at Sl.Nos.5 and 6 executed during 2017-18 and below the threshold limit of Rs.10.00 lakhs. The appellate authority further held that the value of clearance during 2016-17 and 2017-18 mentioned therein are well within the threshold limit of Rs.10.00 lakhs. Therefore, the petitioner was entitled to SSI exemption under

Notification No.33/2012-S.T., dated 20.06.2012. The appellate authority found that the demands are not tenable since the petitioner had not rendered any taxable service and it was not liable to file statutory returns. The late fee for filing statutory returns was also held to be not tenable. The impugned order in the appeal was set aside.

6. In the present impugned order-in-original dated 20.11.2023, the assessing authority has relying upon the Income Tax Returns/Form 26AS held that the service provider had provided services and received consideration for the same period from the service recipients and that the onus lies upon the service provider to establish that the services were either specified in the negative list or exempted from payment of service tax. Therefore, it held the income of Rs.3,69,42,555/- as consideration received from the service recipients for providing taxable services during the period in respect of which the demand for the Financial Year 2016-17 and 2017-18 (up to June, 2017) were upheld.

7. Upon comparison of the two proceedings, it is thus evident that the assessing officer in the instant proceedings *vide* impugned order-in-original dated 20.11.2023 had proceeded to confirm the demand on similar grounds for the same period though the appellate authority had held otherwise.

8. In such circumstances, the impugned order-in-original dated 20.1m1.2023 cannot be upheld in the eye of law and is accordingly, set

aside. Consequently, the impugned garnishee notice dated 13.01.2026 is also set aside.

9. Accordingly, the instant Writ Petition is allowed. There shall be no order as to costs.

Miscellaneous applications, if any pending, shall stand closed.

APARESH KUMAR SINGH, CJ

G.M.MOHIUDDIN, J

6th August, 2026

KTL