IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 6661 of 2023
With
R/SPECIAL CIVIL APPLICATION NO. 4593 of 2022
With
R/SPECIAL CIVIL APPLICATION NO. 14853 of 2023

FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE A.S. SUPEHIA Sd/-
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI Sd/-

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Approved for Reporting	Yes	No
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JAY MANUBHAI THAKKAR
Versus
OFFICE OF DEPUTY/ASSISTANT COMMISSIONER, DIVISION 1

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Appearance:
SCA No.6661 of 2023
MR JAIMIN R DAVE(7022) & SHIVAM D PARIKH(9477) for Petitioner No. 1
PARAM V SHAH(9473) for Respondent(s) No. 1

SCA No.4593 of 2022
MS PRIYANSHI TRIVEDI for MR MASOOM K SHAH for Petitioner(s) No. 1
RULE SERVED BY DS for Respondent(s) No. 1
DEEPAK N KHANCHANDANI for Respondent(s) No. 2-4

SCA No.14853 of 2023
MR RATHIN P RAVAL for Petitioner(s) No. 1
MS HETVI H SANCHETI for Respondent(s) No. 1,2

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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 13/10/2026
COMMON ORAL JUDGMENT
(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. Since the common issue is involved in the present writ petitions, the same are decided analogously by the common judgement. Special Civil Application No.6661 of 2023 is taken up as a lead matter.

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2. In Special Civil Application No.6661 of 2023, the petitioner has prayed for quashing and setting aside the Order-in-Original dated 27.12.2022 passed under section 66B read with sections 68, 77, 78 of the Finance (Service Tax) Act, 1994 for Financial Year 2015-16.

3. In Special Civil Application No.4593 of 2022, the petitioner i.e. the association of Gujarat High Court Advocates Association, has prayed for a declaration to the extent that the advocates in general as a class are not liable to pay service tax in view of Sr.No.6 of Notification No.25/ 2012-ST dated 20.06.2012 and Notification No.30/ 2012-ST dated 20.06.2012.

4. In Special Civil Application No.14853 of 2023, the petitioner, who is also an advocate, has prayed for quashing and setting aside the order dated 28.06.2023 passed by the Deputy Commissioner, CGST Division-VIII, Ahmedabad-South by resorting to the provisions of the Finance (Service Tax) Act, 1994 for the service tax.

5. At the outset, learned advocates appearing for the respective parties have submitted that the issue is no more *res integra* and the same is decided by various High Courts. They have tendered the judgement rendered by the Karnataka High Court dated 22.04.2024 passed in Writ

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Petition No.26096 of 2022 and allied matters in case of *Mr.Prashanth Sreedhar Shinoi vs. Assistant Commissioner Central Tax* and the decision of the Bombay High Court in the case of *Adv.Pooja Patil vs. Deputy Commissioner, CGST and CX Division VI,* [2024] 159 taxmann.com 188 (Bombay) and decision of the Orissa High Court at Cuttak dated 07.04.2025 passed in Writ Petition (Civil) No.6592 of 2025 in the case of *Shivananda Ray vs. Principal Commissioner CGST and Central Excise, Bhubaneswar and Ors*.

6. We have perused all the judgements. The same have dealt with the Notification No.25/2012-ST and No.30/2012-ST dated 20.06.2012.

7. After examination of the aforesaid Notifications, the Bombay High Court has set aside the impugned action of the respondent Department in levying service tax on the advocates. We may incorporate the relevant observations of the Bombay High Court in the case of **Adv.Pooja Patil (supra).**

> *"8. It is thus clear that as set out in the Notification, the taxable service in respect of services provided or to be provided by the individual advocate for a firm of advocates has been set out to be 'Nil'. Similarly Notification No. 25/2012 dated 20th June, 2012, also clearly provides that the service provided by an individual advocate, partnership firm of advocates, by way of legal services being exempted from levy of service tax.*

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9. If the aforesaid position is to be the correct position, certainly the Designated Officer has acted without jurisdiction having acted contrary to the binding notifications. In the case of Ish Kiran Jain (supra), this Court in paragraph 5 referring to the different decisions of this Court as also a decision of the Jharkhand High Court, the Court observed thus:-

> *"5. The petitioner has also referred to the decision of the Division Bench of this Court in the case of P.C. Joshi v. Union of India [2015 (37) S.T.R. 6] to contend that although the said decision recognised the levy of service tax on advocate, the same has been stayed by the Supreme Court. The Petitioner has also placed reliance on the decision of the Jharkhand High Court in the case of Madhu Sudan Mittal v. Union of India [2023 (70) GSTL 124], to contend that in such decision, the Jharkhand High Court has held that demand notice for payment of service tax on legal services provided by advocate was not sustainable.*

10. We may observe that the notifications which are now placed for consideration of the Court are absolutely clear, they were not the subject matter of consideration in the case of Isha Kiran Jain (supra). We are thus of the considered opinion, that no useful purpose would be achieved in present proceeding remanding to the Designated Officer. We deem it fit in the interest of justice to quash and set aside the impugned order, for the reasons that the Designated Officer has acted without jurisdiction and as the impugned order is passed patently, contrary to the notifications dated 20th June 2012 (supra). The Petition accordingly needs to succeed. It stands allowed in terms of prayer clause (a).

8. Thus in view of the settled legal precedents and in light of the two Notifications, the impugned action of the respondents is hereby quashed and set aside. The writ petitions ***succeed*** in terms of the respective prayers. Rule made absolute.

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Registry to place a copy of this order in the connected matter(s).

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(VAIBHAVI D. NANAVATI,J)

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