



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 16471 OF 2024 (T-RES)

BETWEEN:

M/S KRAZBEE SERVICES PRIVATE LIMITED
HAVING THEIR REGISTERED OFFICE AT 128/9,
MARUTHI SAPPHIRE, 3RD FLOOR,
HAL OLD AIRPORT ROAD, MURUGESHPALYA,
BANGALORE – 560 017.

COMPANY REGISTERED UNDER COMPANIS ACT OF 1956
REP. BY ITS LEGAL HEAD S
RI PUNEETH PARIHAR
HAVING HIS RESIDENCE AT
CT-2, HM GLADIOUS,
AGA ABBAS ALI ROAD,
SAVACHETTY GARDENS, ULSOOR,
BANGALORE – 560 042.

...PETITIONER

(BY SRI. G. SHIVADASS, SENIOR COUNSEL FOR
SRI. PRASHANTH S., SRI.RISHAB J., SRI.NITIN ADITYA &
SMT.SHRADDHA RAJGIRI, ADVOCATES)



AND:

1. ADDITIONAL DIRECTOR, DGGI, BZU
NO.112, S P ENCLAVE, K H ROAD,
BENGALURU,
KARNATAKA – 560 027.
2. ADDITIONAL/JOINT COMMISSIONER
OF CENTRAL TAX,
CENTRAL TAX COMMISSIONERATE,
BANGALORE EAST, BMTC BUILDING,
OLD AIRPORT ROAD, DOMLUR,
BENGALURU – 560 071.

...RESPONDENTS

(BY SRI. JEEVAN J. NEERALGI, ADVOCATE)



THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH SHOW CAUSE NOTICE 06/2024-25 ISSUED FROM FILE F.NO. DGGI/INT/INTL/632/2022-GROUP C-03-O/o PR ADG-DGGI-ZU-BENGALURU/1970-73/24 DATED 25.04.2024 AT ANNEXURE-A ISSUED BY RESPONDENT NO.1 ON THE GROUNDS THAT IT IS ISSUED WITHOUT JURISDICTION, IS ARBITRARY AND VAGUE AND CONTRADICTS THE PROVISIONS OF THE CGST ACT AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, petitioner seeks for the following reliefs:-

- "a. To issue an order or direction in the nature of Certiorari quashing Show Cause Notice 06/2024-25 issued from File F.No.DGGI/INT/INTL/632/2022-Group C-03-O/o Pr ADG-DGGI-ZU-Bengaluru/1970-73/24 dated 25.04.2024 at Annexure-A, issued by Respondent No.1, on the grounds that it is issued without jurisdiction, is arbitrary and vague and contradicts the provisions of the CGST Act;*
- b. To issue an order or direction in the nature of Mandamus holding that the amount paid as compensation by the LSP to the Petitioner is in the form of 'liquidated damages' and is not taxable under the provisions of the CGST Act in terms of Circular*



No.178/10/2022 (F.No.190354/176/2022-TRU] dated
03.08.2022 at Annexure-T;

- c. *To issue an order or direction in the nature of Mandamus directing the Respondent No.1 to refund the amount of Rs.5,00,00,000/- paid under protest along with interest;*
- d. *To issue an order or direction in the nature of Mandamus holding that no interest and penalty is payable by the Petitioner.*
- e. *To issue order(s), directions or any other relief as this Hon'ble Court deems it fit and proper in the facts and circumstances of the case in the interest of justice."*

2. Heard learned Senior counsel for the petitioner and learned counsel for the respondents-revenue and perused the material on record.

3. In addition to reiterating the various contentions urged in the petition and referring to the material on record, learned Senior counsel for the petitioner invited my attention to the Framework Agreement dated 16.03.2020 entered into between the petitioner, which is the non-banking financial company and one Finnovation Tech Solutions Private Limited, which is a Lending Service Provider (LSP) in order to Paragraph out that any claim by the



petitioner as against the said LSP would be in the nature of liquidated damages, which is not amenable / exigible to payment of GST as per Paragraph No.7.1 and Paragraph 7.1.6 of the Circular at Annexure-T dated 03.08.2022 and as such, the impugned demand made in the show cause notice calling upon the petitioner to pay GST on liquidated damages is illegal, arbitrary and contrary to the said Circular and the same deserves to be quashed.

4. Per contra, learned counsel for the respondents invited my attention to the impugned show cause notice in order to Paragraph out that the contract entered into between the petitioner and the aforesaid LSP (Finnovation Tech Solutions Private Limited) as recorded under the head 'deficiency service fee' with the ledger account and the receipts are in the form of consideration received for tolerating an act or a situation to tolerate the deficiency in services received from M/s.Finnovative & M/s.Kartbee with which the petitioner has entered into the aforesaid contract and is classifiable as 'taxable service' under para 5(e) of Schedule - II of the CGST Act and the petitioner – tax payer since failed to discharge the same, the impugned show cause notice does not warrant interference by this Court in the present petition as per



Paragraph No.6 of the said Circular and as such, there is no merit in the petition and the same is liable to be dismissed.

5. By way of reply, learned Senior counsel for the petitioner submits that the impugned show cause notice does not take into account Paragraph No.7 of the said Circular which is directly and squarely applicable to the fact situation of the present case and if the same would apply to the petitioner, the impugned show cause notice deserves to be quashed.

6. I have given my anxious consideration to the rival submissions and perused the material on record.

7. A perusal of the aforesaid Master Service Agreement entered into between the petitioner and aforesaid LSPs will clearly indicate that any breach of contract committed by the aforesaid LSPs would entitle the petitioner to claim liquidated damages which is covered by Paragraph No.7 of the aforesaid Circular dated 03.08.2022 which mandates that a party to the contract who suffers such breach would be entitled to claim compensation from the other party towards such loss or damage caused to him by such



breach or non-performance of the contract by either party in terms of Sections 73 and 74 of the Indian Contract Act, 1872.

8. Paragraph No.7.1 to 7.1.6 of the said Circular dated 03.08.2022 under the head 'liquidated damages' reads as under:-

"7.1 Breach or non-performance of contract by one party results in loss and damages to the other party. Therefore, the law provides in Section 73 of the Contract Act, 1972 that when a contract has been broken, the party which suffers by such breach is entitled to receive from the other party compensation for any loss or damage caused to him by such breach. The compensation is not by way of consideration for any other independent activity; it is just an event in the course of performance of that contract.

7.1.1 It is common for the parties entering into a contract, to specify in the contract itself, the compensation that would be payable in the event of the breach of the contract. Such compensation specified in a written contract for breach of non-performance of the contract or parties of the contract is referred to as liquidated damages. Black's Law Dictionary defines 'Liquidated Damages' as cash compensation agreed to by a signed, written contract for breach of contract, payable to the aggrieved party.

7.1.2 Section 74 of the Contract Act, 1972 provides that when a contract is broken, if a sum has been named or a penalty stipulated in the contract as the amount or penalty to be paid in case of breach, the aggrieved party shall be



entitled to receive reasonable compensation not exceeding the amount so named or the penalty so stipulated.

7.1.3 Xxx

7.1.4 Xxx

7.1.5 Xxx

7.1.6 If a payment constitutes a consideration for a supply, then it is taxable irrespective of by what name it is called; it must be remembered that a "consideration" cannot be considered de hors an agreement/contract between two persons wherein one person does something for another and that other pays the first in return. If the payment is merely an event in the course of the performance of the agreement and it does not represent the 'object', as such, of the contract then it cannot be considered 'consideration'. For example, a contract may provide that payment by the recipient of goods or services shall be made before a certain date and failure to make payment by the due date shall attract late fee or penalty. A contract for transport of passengers may stipulate that the ticket amount shall be partly or wholly forfeited if the passenger does not show up. A contract for package tour may stipulate forfeiture of security deposit in the event of cancellation of tour by the customer. Similarly, a contract for lease of movable or immovable property may stipulate that the lessee shall not terminate the lease before a certain period and if he does so he will have to pay certain amount as early termination fee or penalty. Some banks similarly charge pre- payment penalty if the borrower wishes to repay the loan before the maturity of the loan period. Such



amounts paid for acceptance of late payment, early termination of lease or for pre-payment of loan or the amounts forfeited on cancellation of service by the customer as contemplated by the contract as part of commercial terms agreed to by the parties, constitute consideration for the supply of a facility, namely, of acceptance of late payment, early termination of a lease agreement, of prepayment of loan and of making arrangements for the intended supply by the tour operator respectively. Therefore, such payments, even though they may be referred to as fine or penalty, are actually payments that amount to consideration for supply, and are subject to GST, in cases where such supply is taxable. Since these supplies are ancillary to the principal supply for which the contract is signed, they shall be eligible to be assessed as the principal supply, as discussed in detail in the later paragraphs. Naturally, such payments will not be taxable if the principal supply is exempt.”

9. In the instant case, a perusal of the impugned show cause notice will clearly indicate that the 1st respondent has imposed / levied GST on the petitioner in relation to the liquidated damages received by the petitioner and the same is clearly covered by Paragraph No.7.1 and 7.1.6 to the aforesaid Circular and such payments are not taxable as wrongly contended by the respondents.



10. Learned Senior counsel for the petitioner is also correct in his submission that while Paragraphs No.7.1 to 7.1.6 of the said Circular are specific and would be applicable to the petitioner's case, while Paragraph Nos. 6 and 7 are generic in nature; further, paragraphs No.7.1 to 7.1.6 specifically deals with the receipt of compensation by way of liquidated damages arising out of the contract entered into between the petitioner and aforesaid LSPs and consequently, the amount received by the petitioner from its LSPs by way of liquidated damages fall outside the purview of GST in terms of the said Circular and the said amounts cannot be made amenable/exigible to GST as wrongly demanded in the impugned show cause notice, which deserves to be quashed.

11. Insofar as the allegation made in the impugned show cause notice that the petitioner has supplied similar services to M/s.IIFL, M/s.PayU Finance India Pvt. Ltd., M/s. MAS Financial Services Pvt., Ltd., which are charging GST *albeit* under different nomenclature and that the petitioner is not entitled to two different methodologies for the same / similar transactions to evade tax is concerned, having regard to the terms and conditions of the specific Master Service Agreement entered into between the



petitioner and its LSPs as states supra, merely because there are other transactions between the petitioner and LSPs, the said circumstance cannot be made the basis to fasten liability on the petitioner especially when the same is expressly / specifically included in Paragraph Nos.7 to 7.1.6 of the said Circular and as such, the said contention of the respondents cannot be accepted.

12. Insofar as prayer(c) relating to refund of the amount of Rs.5 crores paid under protest by the petitioner is concerned, under identical circumstances in the case of ***Ramesh Chand vs. Union of India & others – W.P.No.9890/2023 dated 13.10.2025***,

this Court held as under:-

25. *In the instant case, the material on record discloses that on 23.03.2023, the 3rd respondent undertook a raid at the residence of the petitioner and seized a laptop; thereafter, on 24.03.2023, the respondents 3 and 4 along with other officials undertook search and inspection proceedings in the principal place of business of the petitioner, during the course of which, a sum of Rs.10 crores was obtained / received / collected by them from the petitioner on 24.03.2023 itself. In my considered opinion, the material on record clearly indicates that the aforesaid payment of Rs.10 crores by the petitioner to the respondents was involuntary and the same was not voluntary or by way of*



self-ascertainment as contended by the respondents for the following reasons:-

(i) It is an undisputed fact that prior to the search and inspection conducted by the respondents on 24.03.2023, they did not issue any notice to the petitioner nor were any proceedings to ascertain, adjudicate or determine the tax, interest and penalty payable by the petitioner which indicates that there was no occasion for the petitioner to pay the said sum voluntarily by way of self-ascertainment to the respondents, thereby indicating that the said amount was not paid voluntarily by the petitioner.

(ii) Rule 142(2) of the CGST Rules, 2017, contemplates that upon the petitioner making payment in Form GST DRC-03, the respondents are bound to issue an acknowledgment in Form GST DRC-04 to the petitioner; undisputedly, respondents did not issue any such acknowledgment to the petitioner which is a circumstance to clearly indicate that the said amount was not a voluntary payment made by the petitioner.

(iii) Prior to the search and inspection made by the respondents, there was no demand made by the respondents in relation to the amount paid by the petitioner under any of the provisions of the CGST Act, 2017, which is yet another circumstance to indicate that there was no warrant / reason for the petitioner to make voluntary payment during the course of search and inspection proceedings.

(iv) The material on record also indicates that even at the time of payment by the petitioner, the details, material



particulars, quantification etc., of the alleged self-ascertainment and voluntary payment by the petitioner are conspicuously absent except for filling up Form DRC-03 which merely contains the amount without additional details in this regard; interestingly, there are no other contemporaneous document in this regard, thereby establishing that the payment made by the petitioner cannot be construed or treated as voluntary as contended by the respondents.

(v) It is pertinent to note that the respondents would be entitled to invoke Section 74 only in cases of tax not paid / short paid / erroneously refunded / input tax credit wrongly availed or utilised by reason of fraud or any wilful-misstatement or suppression of facts; it follows therefrom that the provisions contained in Section 74 would apply only if the respondents were to prove the aforesaid allegations contemplated in the said provision made against the assessee; in such proceedings to be initiated under Section 74, it is highly inconceivable that a tax payer / assessee in respect of whom, search, seizure and inspection proceedings are being conducted by the respondents would voluntarily make payment thereby exposing himself to the risk of admitting that he is guilty of the allegations contemplated in Section 74 of the CGST Act; in other words, in the light of Form GST DRC-03 said to have been submitted by the petitioner along with the payment by invoking Section 74 (5) of the CGST Act, it is highly / inherently improbable that the said payment was made voluntarily by the petitioner that too during the course of



search, seizure and inspection proceedings and even before he became aware or came to know whether proceedings under Sections 73 to 74 would be initiated against him and as such, the payment made by the petitioner cannot be said to be voluntary by way of self-ascertainment on this ground also.

(vi) A perusal of the material on record will clearly indicate that prior to the payment made by the petitioner, there was no proceeding or order by the respondents which adjudicated or quantified or ascertained the amount payable by the petitioner nor any such quantification or ascertainment done / made by the petitioner for the purpose of arriving at the sum of Rs.10 crores paid by the petitioner, which was not preceded by any order or basis so as to arrive at the said figure; to put it differently, in the absence of any material to establish as to how the petitioner or quantified or arrived at a sum of Rs.10 crores paid by him and in the absence of requisite / necessary material particulars / details in this regard, it cannot be said that the said sum paid by the petitioner was voluntary and by way of self - ascertainment as contended by the respondents whose contention in this regard deserves to be rejected.

(vii) A perusal of the material pertaining to search, inspection and seizure proceedings comprising of mahazar, seizure order etc., will indicate that on 23.03.2023 itself, the residence of the petitioner was inspected by the respondents who seized one laptop from the petitioner; on the very next day i.e., on 24.03.2023, the respondents seized various movable, articles comprising of account



books, desktops, server disks, mobile phones, hard disks, laptop etc., from the business premises of the petitioner and all necessary data that was required for the purpose of self-ascertainment had been seized from the petitioner by the respondents; it follows therefrom that at the time of payment, there could not have been any material, accounts, etc., available with the petitioner that would enable him to proceed with self-ascertainment and accordingly, voluntarily make payment of Rs.10 crores to the respondents; in other words, in the light of the undisputed fact that all necessary material, account etc., which was the basis for self-ascertainment having been seized by the respondents, it is highly improbable that the petitioner was in a position to carryout self-ascertainment and make payment which is yet another circumstance to establish that the said payment was not voluntary as falsely contended by the respondents, whose contention is liable to be rejected on this score also.

(viii) As stated supra, except conducting search, inspection and seizure proceedings, no other proceedings or order were initiated or passed by the respondents prior to the payment made by the petitioner and no ascertainment had been made / done by the respondents till that time; the undisputed fact that the respondents themselves ascertained the actual amount payable by the petitioner only during the pendency of the present petition by issuance of intimation in Form GST DRC-01A dated 17.02.2025, is sufficient to come to the conclusion that prior thereto and at the time of search, seizure and inspection proceedings during the course of which, payment was made, there was



no ascertainment of the actual tax, interest and penalty payable by the petitioner which also establishes that the payment made by the petitioner was involuntary and not on his own account but at the instance of the respondents, whose contentions are liable to be rejected on this ground also.

(ix) A perusal of the provisions contained in Section 74(5) of the CGST Act will indicate that voluntary payment by the petitioner would have to be made as per the procedure prescribed in the said provision, viz., firstly, ascertain the actual tax payable by him after verification / scrutiny of his accounts, secondly, calculate the interest payable by him in terms of Section 50 of the CGST Act, which provides for discretion in payment of interest upto 18% / 24% p.a. and thirdly, to calculate the penalty at 15% on the tax payable by him; in other words, this process of self-ascertainment calls for and demands verification / scrutiny of accounts and calculation of discretionary rate of interest up to 18% / 24% which is not a fixed rate of interest and penalty, all of which is highly improbable and physically / humanly impossible to be done by a tax payer / assessee who is already under immense pressure on account of search, inspection and seizure operation being conducted, particularly when all equipment which would be required / necessary for such self-ascertainment was not available with the petitioner and as such, even on this ground also, I am of the view that the payment made by the petitioner was clearly not voluntary and at the behest / instance of the respondents during the course of their proceedings.



(x) A perusal of the payment made by the petitioner in Form GST DRC-03 will indicate that the same is made under Section 74(5) of the CGST Act which mandates that such voluntary payment of tax should have been made by the petitioner along with interest under Section 50 of the CGST Act and penalty; in this context, the said payment in Form GST DRC-03 will indicate that no payment is made by the petitioner towards interest or penalty and the relevant columns in this regard are shown as 'Nil' which is yet another circumstance to indicate that the payment was not made by the petitioner voluntarily in terms of Section 74(5) of the CGST Act, 2017, as contended by the respondents whose contentions are liable to be rejected.

(xi) A perusal of the material on record will indicate that the payment of Rs.10 crores by the petitioner during the course of search, inspection and seizure proceedings is contrary to the directions issued by the respondents themselves in Instruction No.1/2022-23 dated 25.05.2022, in which the officials of the respondents have been cautioned / warned against taking steps to collect / receive / obtain voluntary payment and reiterated by the Apex Court in **Radhika Agarwal's case supra**, and as such, the contentions of the respondents cannot be accepted on this ground also.

26. In view of the aforesaid facts and circumstances and the principles enunciated in the aforesaid judgments, I am of the view that the obtainment / collection / receipt of a sum of Rs.10 crores by the respondents from the petitioner at the time of search, inspection and seizure operations is



not voluntary or by way of self-ascertainment and the same is wholly illegal, arbitrary and contrary to law and the provisions of the CGST Act and also without jurisdiction or authority of law and the said amount deserves to be refunded back to the petitioner together with interest at the rate of 6% p.a. within a stipulated timeframe.

27. *In the result, I pass the following:-*

ORDER

(i) Petition is hereby allowed.

(ii) The petitioner is declared to be entitled to refund of Rs.10 crores together with interest @ 6% p.a. from 24.03.2023 till the date of payment.

(iii) The respondents are directed to refund the aforesaid amount of Rs.10 crores together with interest @ 6% p.a. from 24.03.2023 till the date of payment to the petitioner within a period of two months from the date of receipt of a copy of this order.

(iv) All rival contentions between the parties pursuant to the show cause notice and adjudication proceedings of the respondents are kept open and no opinion is expressed on the same.

13. *In the result, I pass the following:*

ORDER

(i) Petition is hereby allowed.

(ii) The impugned show cause notice at Annexure-A dated 25.04.2024 issued by the 1st respondent is hereby quashed.



(iii) The concerned respondents or any other appropriate authority / suitable authority are directed to refund the entire amount of Rs.5 crores together with applicable interest back to the petitioner within a period of Eight weeks from the date of receipt of a copy of this order.

**Sd/-
(S.R.KRISHNA KUMAR)
JUDGE**

SRL
List No.: 2 SI No.: 2