



## IN THE HIGH COURT OF JUDICATURE AT BOMBAY

## ORDINARY ORIGINAL CIVIL JURISDICTION

## WRIT PETITION (L)NO. 1684 of 2026

Manisha Rajiv Shroff

...Petitioner

VS

The Union of India &amp; Ors.

...Respondents

Mr. Mihir Gupte, Mr. Mayank Jain and Ms. Pallavi Singh, for Petitioner.  
Mr. Jitendra B. Mishra with Sangeeta Yadav, Mr. Rupesh Dubey, for Respondent  
No.1-UOI.

Ms. Shruti Vyas with Niyati Mankad (thr.V.C.) with Priyanka Singh, for  
Respondent Nos.2 to 5.

CORAM: G. S. KULKARNI &  
AARTI SATHE, JJ.

DATE: 5 February 2026.

P.C.

1. Rule returnable forthwith. Respondents waive service. By consent of parties, heard finally.
2. This petition under Article 226 of the Constitution is filed praying for the following substantive reliefs:

"a) Issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ. Order or Direction under Article 226 of the Constitution of India, calling for the records of its case insofar as they the Order-In-Original No SG-relate to 83/DC/MSH/DIV-V/2023 dated 15.03.2023 being Exhibit A passed by Respondent No. 4 and after going through the same and examining the question of the legality thereof to quash and set aside the same;

(b) in consequence of the above this Hon ble Court may be pleased to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, Order or Direction under Article 226 of the Constitution of India, ordering and directing Respondents, to withdraw, revoke and cancel the Recovery Notice bearing F. No. CGST/MC/DN-V/Recovery of Arr./343/2025-26 dated 31.10.2025;

c) issue a Writ of Prohibition or a Writ in the nature of Certiorari or any other appropriate Writ, Order or Direction under Article 226 of the Constitution of India, calling for the records of its case insofar as they relate to the Show Cause

Notice No. 87/AC/DN-V/R-IV/MSH/2021-22 dated 27.10.2021 and after going through the same and examining the question of the legality thereof to quash and set aside the same;”

3. This petition challenges the order-in-original dated 15 March 2023 which seeks to impose service tax on the petitioner who is an advocate by profession, in regard to rendering of services by the petitioner as an advocate to a partnership firm which is exempt from the levy of service tax. Consequent to the order-in-original, recovery notice dated 31 October 2025 was issued to the petitioner which creating a lien on the bank accounts of the petitioner. It is in these circumstances, the petitioner approached this Court.

4. The facts lie in a narrow compass:- The petitioner is an advocate registered with the Bar Council of Maharashtra and Goa since 5 February 2007. On 27 October 2021, a show cause notice was issued to the petitioner alleging mismatch between the Income Tax Returns and Tax Deducted at Source data and Service Tax-3 returns. Since the notice was dispatched on the old address of the petitioner, the same was not received by the petitioner. Moreover, notices of three personal hearings as scheduled, were also not received by the petitioner. It is in these circumstances, the impugned order dated 15 March 2023 was passed confirming the service tax liability alongwith the interest and penalty. Consequent thereto, on 31 October 2025 a recovery notice under Section 87 of the Finance Act, 1994 was issued and also on 3 November 2025 a lien was created on the ICICI Bank account of the petitioner of which no notice was not given to the petitioner. The petitioner also discovered that on 21 December 2025, the petitioner's account with the Axis Bank was frozen and on 23

December 2025 the petitioner accordingly obtained a copy of the recovery notice from the Axis Bank.

5. It is in these circumstances, the petitioner has contended that the service tax is not leviable on the services provided by an advocate to a partnership firm of advocates in view of Notification No.25/2012-ST issued by the Ministry of Finance, Department of Revenue as also Notification No.30/2012-ST as issued by the Ministry of Finance, Department of Revenue. In the alternative contended that the services as provided by an advocate is taxable under reverse charge mechanism in view of the notification No.25/12 dated 20 June 2012. The petitioner has also made a grievance that principles of natural justice, in issuing the impugned order, were not followed.

6. We have heard learned Counsel for the parties. From the order-in-original, it appears that the genesis of said action taken against the petitioner is on the verification of third party data received by the Income Tax Department for the period 2016-17, when it was observed that there was an apparent mismatch on the payment of service tax and the turnover of the petitioner. It is observed that the petitioner had not discharged / declared her service tax liability correctly for the period 2016-17 which has resulted in evasion of service tax payment and accordingly a show cause notice is stated to have been issued to the petitioner calling upon the petitioner to discharge the service tax liability which was stated to be of Rs.26,81,250/-. Admittedly, no reply to the show cause notice was filed, for the reasons which we have recorded hereinabove.

7. On such backdrop, having heard learned Counsel for the parties and having perused the record, at the outset at the bar it is accepted that the proceedings would stand covered by the decision of this Court in **Advocate Pooja Patil Vs. Deputy Commissioner, CGST And CX Division VI<sup>1</sup>**, wherein in similar circumstances, considering the Notification No.25/2012 issued by the Ministry of Finance (Department of Revenue) as also Notification No.30/2012 issued by the Ministry of Finance (Department of Revenue), the Court accepted the case of the said petitioner that the Designated Officer would not have jurisdiction to take forward the proceedings inasmuch as the service tax was not leviable on the individual advocate as per the said notifications. The relevant observations as made by the Court in paragraph 7 to 10 read thus:

“7. In our opinion, what is more fundamental is that the Designated Officer although was pointed out that he would not have jurisdiction to take forward the proceedings, inasmuch as service tax was not leviable on the individual advocate, as per the provisions of notification(s) as noted above, such contention has not been considered by the Designated Officer in passing the impugned order. We may note the relevant extract of each of these Notifications, which reads thus :-

Government of India  
Ministry of Finance  
(Department of Revenue)  
Notification No.25/2012-Service Tax

New Delhi, the 20th June, 2012

G.S.R.....(E).-In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Act) and in supersession of notification number 12/2012-Service Tax, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 210 (E), dated the 17th March, 2012, the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the following taxable services from the whole of the service tax leviable thereon under section 66B of the said Act, namely:-

1. Services provided to the United Nations or a specified international

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**1** (2024)(15) Centax 124( Bom.)

organization;

2. Health care services by a clinical establishment, an authorised medical practitioner or para-medics;

3. Services by a veterinary clinic in relation to health care of animals or birds;

4. Services by an entity registered under section 12AA of the Income Tax Act, 1961 (43 of 1961) by way of charitable activities;

5. Services by a person by way of-

(a) renting of precincts of a religious place meant for general public; or

(b) conduct of any religious ceremony;

6. Services provided by-

(a) an arbitral tribunal to -

(i) any person other than a business entity; or

(ii) a business entity with a turnover up to rupees ten lakh in the preceding financial year;

(b) an individual as an advocate or a partnership firm of advocates by way of legal services to,-

(i) an advocate or partnership firm of advocates providing legal services;"

(emphasis supplied)

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Government of India

Ministry of Finance

(Department of Revenue)

Notification No.30/2012-Service Tax

New Delhi, the 20th June, 2012

GSR.....(E).-----In exercise of the powers conferred by sub-section (2) of section 68 of the Finance Act, 1994 (32 of 1994), and in supersession of (i) notification of the Government of India in the Ministry of Finance (Department of Revenue), No.15/2012-Service Tax, dated the 17th March, 2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R.213(E), dated the 17<sup>th</sup> March, 2012, and (ii) notification of the Government of India in the Ministry of Finance (Department of Revenue), No.36/2004-Service Tax, dated the 31st December, 2004, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 849 (E), dated the 31st December, 2004, except as respects things done or omitted to be done before such supersession, the Central Government hereby notifies the following taxable services and the extent of service tax payable thereon by the person liable to pay service tax for the purposes of the said sub-section, namely:-

I. ....

(II) The extent of service tax payable thereon by the person who provides the service and the person who receives the service for the taxable services specified in (I) shall be as specified in the following Table, namely:-

Sl.N.	Description of a service	Percentage of service tax payable by the person providing	Percentage of service tax payable by the person receiving the

		service	service
1	In respect of services provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road	Nil	100%
2	In respect of services provided or agreed to be provided by individual advocate or a firm of advocates by way of legal services	Nil	100%
3	In respect of services provided or agreed to be provided by Government or local authority by way of support service excluding, - (1) renting of immovable property, and (2) services specified in sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act, 1994	Nil	100%

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.

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 (cited 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 Vs. 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 Vs. 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 (cited 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. The present proceedings also would stand covered by such notifications and the position in law as held by this Court in **Advocate Pooja Patil** (supra).

9. The petition accordingly needs to succeed. It is accordingly allowed in terms of prayer clauses (a), (b) and (c). No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)

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