



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF DECEMBER, 2025

BEFORE

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

WRIT PETITION NO. 13502 OF 2024 (T-RES)

BETWEEN:

LI AND FUNG (INDIA) PRIVATE LIMITED
A REGISTERED COMPANY,
HAVING ITS PRINCIPAL OFFICE IN
BANGALORE AT 33/5,
1st FLOOR , REAR PORTION,
MOUNT KAILASH,
MEANEE AVENUE ROAD,
BENGALURU URBAN
KARNATAKA – 560 042

REPRESENTED BY ITS AUTHORIZED SIGNATORY
MR. NARESH KUMAR SHARMA

...PETITIONER

(BY SRI. TARUN GULATI, SENIOR COUNSEL FOR
SRI. PARASHURAM A. L., ADVOCATE)

AND:

1. UNION OF INDIA
THROUGH THE SECRETARY,
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE,
NORTH BLOCK,
NEW DELHI – 110 001
2. STATE OF KARNATAKA
THROUGH THE SECRETARY,
COMMERCIAL TAX DEPARTMENT,
COMMERCIAL TAX OFFICE-1
FIRST MAIN ROAD,
GANDHINAGAR
BANGALORE – 560 009





3. JONT COMMISSIONER,
GST COMMISSIONERATE, BENGALURU EAST
4th FLOOR, TTMC/BMTC BUILDING,
OLD AIRPORT ROAD, DOMLUR,
BENGALURU – 560 071
4. ASSISTANT COMMISSIONER OF CENTRAL
TAX DIVISION-2 GST,
COMMISSIONERATE, BENGALURU EAST ,
4th FLOOR, TTMC/BMTC BUILDING,
ABOVE BMTC BUS STAND, DOMLUR,
BENGALURU – 560 071
5. SUPERINTENDENT OF CENTRAL TAX
EAST DIVISION-2,
BENGALURU EAST COMMISSIONERATE,
6th FLOOR, B WING TTMC BMTC BUILDING,
DOMLURU, BENGALURU – 560 071
6. DEPUTY COMMISSIONER CIRCLE III
CENTRAL TAX AUDIT-1
COMMISSIONERATE BENGALURU,
2nd FLOOR, BMTC, TTMC,
BANASHANKARI,
BENGALURU – 560 070
7. DEPUTY COMMISSIONER OF CENTRAL TAX
DIVISION-1, BENGALURU EAST COMMISSIONERATE,
BMTC BUS STAND, HAL AIRPORT ROAD,
DOMMALURU, BENGALURU – 560 071
8. CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS
THROUGH ITS CHAIRMAN,
NORTH BLOCK, CENTRAL SECRETERIAT,
NEW DELHI, DELHI – 110 001

...RESPONDENTS

(BY SRI. ARAVIND V. CHAVAN, ADVOCATE FOR R1, R3 TO R8;
SMT. JYOTI M. MARADI, HCGP FOR R2)



THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECTION OR ORDER THEREBY, DECLARING THAT THE PROVISIONS OF SECTION 13(8)(b) OF THE INTEGRATED GOODS AND SERVICES TAX ACT, 2017 ARE ULTRA VIRES THE PROVISIONS OF ARTICLE 245, ARTICLE 246a, ARTICLE 269a, ARTICLE 286, ARTICLE 14 AND 19(1) (g) OF THE CONSTITUTION OF INDIA, 1950, AND HENCE UNCONSTITUTIONAL AND / OR DIRECTION OR ORDER THEREBY, DECLARING THE NOTIFICATION NO. 13/22-CENTRAL TAX DTD 05.07.22 , NOTIFICATION NO. 09/23-CENTRAL TAX DTD 31.03.23, AND NOTIFICATION NO. 56/23 - CENTRAL TAX DTD 28.01.23 ANNEXURE-B ARE ULTRA VIRES THE PROVISIONS OF THE CGST ACT AND THE CONSTITUTION OF INDIA, 1950, AND HENCE UNCONSTITUTIONAL AND ETC.,

THIS PETITION, COMING ON FOR ORDERS, 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) *Issue a writ of Certiorari or any other writ, direction or order thereby, declaring that the provisions of section 13(8)(b) of the Integrated Goods and Services Tax Act, 2017 are ultra vires the Provisions of Article 245, Article 246a, Article 269a, Article 286, Article 14 and 19(1)(g) of the Constitution of India, 1950 and hence unconstitutional; and / or*



- b) *Issue a writ of Certiorari or any other writ, direction or order thereby, declaring the Notification No.13/2022-Central Tax dated 05.07.2022, Notification No.09/2023-Central Tax dated 31.03.2023, and Notification No.56/2023-Central Tax dated 28.12.2023 (Annexure-B) are ultra vires the provisions of the CGST Act and the Constitution of India, 1950, and hence unconstitutional; and / or*
- c) *Issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India quashing and setting aside reference No.06/2024 JC-1 dated 31.01.2024 (Annexure-C) passed by Respondent No.3.*
- d) *Issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India quashing and setting aside show cause notice bearing ref. no. 114/2023-24/CTA-1/JC dated 18.08.2023 (Annexure-D) issued by Respondent No.3.*
- e) *Issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India quashing and setting aside Impugned Notices 50/2023-24/GST/AC) signed on 10.11.2023, 52/2023-24/GST/SUPDT SIGNED ON 30.11.2023, 53/2023-24/GST/ AC SIGNED ON 01.12.2023, 54/2023-24/GST/AC signed on 01.12.2023, and 55/2023-24/GST/AC signed on*



03.01.2024 [Annexure-E (colly)] issued by Respondent No.4 and Respondent No.5 as the case may be;

- f) Grant the costs of this Petition.*
- g) Dispense with the service of advance notices to the Respondents.*
- h) Dispense with the filing of certified and typed copies of the documents referred in this Writ Petition and allow production of the said documents as and when required.*
- i) Dispense with the filing of certified and typed copies of Annexure – C to Annexure – E.*
- j) Pass such other order / reliefs as this Hon'ble Court deems fit and proper to grant, in the circumstances of the present Petition, in the interests of justice and equity.”*

2. Heard learned Senior counsel for the petitioner and learned HCGP for 2nd respondent as well as learned counsel for respondents 1, 3 to 8 and perused the material on record.

3. The material on record will indicate that the petitioner is engaged in the business support services to its overseas group entity located outside India. During the period July, 2017 to March, 2020, the petitioner was providing export of services as per the



Service Agreement dated 13.02.2007 entered into between the petitioner and LI & FUNG(Trading) Limited, Hong Kong. It is the grievance of the petitioner that though the petitioner is not an 'intermediary', was entitled for refund of accumulated / unutilized input tax credit (ITC) available in their Electronic credit ledger on account of the export of services without payment of IGST, the refund application filed by the petitioner was rejected by the respondents by passing the impugned order, aggrieved by which, the petitioner is before this Court by way of the present petition.

4. Per contra, learned counsel for respondents – revenue reiterating the various contentions urged in the statement of objections, would oppose the petition and sought for dismissal of the same.

5. A perusal of the material on record will indicate that the petitioner is not an 'intermediary' and that the petitioner would be entitled to refund as sought for by him in the light of the following judgments:-

(i) M/s. Amazon Development Centre India Pvt. Ltd. Vs. Commissioner of Central Tax GST (Appeals), Bengaluru – 2025 (5) TMI 150 – Karnataka;



- (ii) M/s. Columbia Sportswear India Sourcing Pvt. Ltd. Vs. Union of India – 2025 (5) TMI 2139 – Karnataka;*
(iii) M/s. Athene Technologies India LLP Vs. The State of Karnataka – 2025 (6) TMI 88 – Karnataka and
(iv) Nokia Solutions & Networks India Pvt. Ltd. Vs. The Principal Commissioner of Central Tax – 2025-VIL-515-KAR.

6. In view of the aforesaid facts and circumstances and the judgments of this Court in the aforesaid cases as stated supra, I am of the considered opinion that the impugned order deserve to be quashed and the respondents be directed to grant refund in favour of the petitioner together with applicable interest within a stipulated time frame.

7. In the result, I pass the following:-

ORDER

(i) Petition is hereby partly allowed.

(ii) The impugned order at Annexure-C dated 31.01.2024 passed by the 3rd respondent as well as the impugned notices at Annexure-D dated 18.08.2023 and Annexure-E series (colly) issued by respondents 3, 4 and 5 respectively are hereby quashed.

(iii) The concerned respondents are hereby directed to grant / sanction refund of the accumulated / unutilized ITC available in



the electronic credit ledger together with applicable interest in favour of the petitioner within a period of three months from the date of receipt of a copy of this order.

SD/-
(S.R.KRISHNA KUMAR)
JUDGE

Srl.