



W.P.No.10651 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-07-2026

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.10651 of 2025
and
W.M.P.No.11996 of 2025

M/s.Unilink Pharma Private Limited,
Rep. by Its Director Mr.S.Karunakaran,
23/11, Parthasarathypuram,
T.Nagar Chennai 600 017.

..Petitioner

Vs

1. The Assistant Commissioner (ST),
Pondy Bazaar Assessment Circle,
Commercial Taxes Department Building,
Station No.46, Mylapore Taluk Office,
Greenways Road, Chennai 600028.
2. The Deputy Commissioner (ST),
Chennai Central-III, Greams Road,
Chennai 600 006.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for (1)ZD3301250653920, dated 08.01.2025 passed by the 1st respondent and direct the respondents to release the balance refund amount of Rs.15,88,029/- (Rupees



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Fifteen Lakhs Eighty Eight Thousand Twenty Nine Only) along with applicable interest from 17.05.2019 to till date as per the CG & ST Act 2017 and to drop the proceeding initiated under Section 74 of CGST Act 2017.

For Petitioner(s): Mr.K.Suresh Kumar

For Respondent(s): Ms.Amirta Poonkodi Dinakaran,
Government Counsel (Tax)

ORDER

The petitioner had applied for refund under Section 54 of applicable GST enactments. Part refund was made to the extent of Rs.14,91,344/-. Thereafter, pursuant to show cause notice dated 03.03.2023 and reminder notice dated 09.12.2024, order dated 08.01.2025 was issued under Section 74 of applicable GST enactments.

2.Learned counsel for the petitioner assails said order on multiple grounds. His first ground of challenge is that proceedings are barred by limitation under Section 74(10) read with Section 75(10). In this connection, he points out that the refund was made on 12.12.2019 and 17.05.2019, whereas the impugned order has been issued on 08.01.2025. The second ground of challenge is that the respondents have relied on Section 96(10) of applicable GST Rules



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after said rule had been omitted. Without prejudice, he contends that said sub-rule was, in any event, inapplicable. In support of the contention that sub-rule 10 of Rule 96 could not have been relied upon, he places reliance on the judgment of a Division Bench of the Andhra Pradesh High Court in *Krishna Sai Granites (India) Ptv. Ltd. v. Joint Commissioner of Central Taxes, (2026) 40 Centax 235 (A.P.)*. He submits further that all material documents had been submitted along with the refund application and were duly considered before granting partial refund. He concludes his submissions by also contending that the petitioner is entitled to the balance refund of Rs.15,88,029/-.

3.In response to these contentions, Ms.Amirta Poonkodi Dinakaran relies upon the judgment of the Supreme Court in *In Re: Cognizance for Extension of Limitation, Suo Motu Writ Petition (C) No.3 of 2020*, whereby the period running from 15.03.2020 to 28.02.2022 was excluded for purposes of limitation in respect of quasi judicial proceedings. If said period is excluded, she contends that proceedings under Section 74 were initiated and concluded within the period of limitation. Referring to the reminder notice dated 09.12.2024, she submits that the petitioner failed to reply thereto and, therefore, the matter was adjudicated based on available materials.

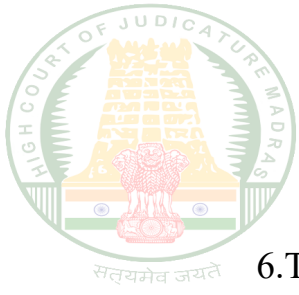


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4.The petitioner contends that Section 74 was erroneously invoked and that ingredients of Section 74 are not specified in the present case. An arguable case in this regard is made out. Reminder notice dated 09.12.2024 refers to and relies upon sub-rule 10 of Rule 96 of applicable GST Rules. Said sub-rule was omitted with effect from 08.10.2024 by notification No.20/2024-Central Tax, dated 08.10.2024. While omitting the sub-rule, it appears that no saving clause was inserted. The reminder notice, however, also draws reference to a communication dated 14.11.2024 from the Central GST authorities regarding the necessity to verify the validity of the refund.

5.The above facts and circumstances justify reconsideration of the impugned order. Therefore, the impugned order is set aside and the matter is remanded. All contentions are left open to the petitioner, including in relation to limitation. After providing a reasonable opportunity to the petitioner, including a personal hearing, a fresh order shall be issued within three months from the date of receipt of a copy of this order.



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6.The writ petition is disposed of on the above terms. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index: No
Speaking order
Neutral Citation: No
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To

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