

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1268 OF 2026

Golden Cryo Pvt. Ltd.

... Petitioner

Versus

Union of India & Ors.

... Respondents

Dr.Sujay Kantawala with Mr. Anupam Dighe and Ms. Renita Alex & Ms. Chandni Tanna i/b. India Law Alliance, for the Petitioner.
Mr.for the Respondents – Union of India.

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

DATE: 12 March 2026

P.C.

1. This petition under Article 226 of the Constitution of India has prayed for the following substantive reliefs:

“a) That this Hon’ble Court may be pleased to issue a Writ of Certiorari or Writ in the nature of Certiorari or any other appropriate Writ, order or direction calling for records and proceedings of the Impugned Rejection Order in FORM GST RFD-06 bearing Sr.No.314/2025 dated 20.12.2025 issued by Respondent No.2 pertaining to Refund Application No.AA271025058709Z dated 14.10.2025 (Exhibit I), and after going into the legality, propriety, and validity thereof, to quash and set aside the same.

b) That this Hon’ble Court be pleased to issue a Writ of Mandamus or Writ in the nature of Mandamus or any other appropriate Writ, Order or Direction directing Respondents, their servants, subordinates and agents:

i. To withdraw the Impugned Rejection Order in FORM GST RFD-06 bearing Sr.No.314/2025 dated 20.12.2025 (**Exhibit I**) issued by Respondent No.2 pertaining to Refund Application No.AA271025058709Z dated 14.10.2025.

ii. To consider the Petitioner’s Preliminary Reply dated 19.12.2025 and to provide a hearing opportunity to the Petitioner as mandated under the proviso to Rule 92(3) of the CGST Rules before passing of any order.”

2. The facts lie in narrow compass: The petitioner filed refund application dated 14 October 2025 seeking refund of Rs.23,67,56,258/- for the period September 2025, being accumulated ITC on export of goods and services without payment of tax. Such application was duly acknowledged on 17 October 2025 in form GST RFD-02. On 13 November 2025, the petitioner by an e-mail addressed to respondent Nos.2 and 4, requested for release of the refund claim. In response to the said e-mail, respondent No.4 informed the petitioner by an e-mail dated 3 December 2025 that the petitioner's e-mail was forwarded to the concerned authority. On 4 December 2025, the petitioner by its e-mail addressed to respondent No.4, reiterated the request for release of the refund amount. On such backdrop on 12 December 2025, respondent No.2 issued a show cause notice in Form GST RFD-08 alleging that the petitioner's suppliers are engaged in the issuance of fake invoices without corresponding supply of goods, based on a purported verification report. The petitioner was given seven days time to respond to the said show cause notice.

3. On 19 December 2025, the petitioner, by its e-mail, submitted its preliminary reply and requested for a personal hearing as mandated under Rule 92(3) of the Central Goods And Services Tax Rules, 2017 (**CGST Rules**), as also reserved its rights to file additional reply submissions contending that the show cause notice itself was vague. The petitioner requested that its reply be considered and that an opportunity of a hearing be granted as mandated by law. The petitioner contends that immediately on the petitioner filing its reply, on 20 December 2025, respondent No.2 without considering the petitioner's reply as

also not giving any notice of hearing to the petitioner, the impugned order in Form GST RFD-06 rejecting the petitioner's refund claim was passed. Accordingly, the petitioner's refund claim for an amount of Rs.23,67,56,258/- came to be rejected.

4. On such backdrop, in the light of Rule 92(3) of the CGST Rules, the petitioner addressed an e-mail dated 25 December 2025 to respondent No.2 requesting to recall the impugned rejection order, and also requested that the petitioner's reply be considered and that an opportunity of a hearing be granted to the petitioner. However, such e-mail/letter not being responded, the present petition is filed praying for the reliefs as noted by us hereinabove.

5. Dr. Kantawala, learned Counsel appearing for the petitioner, at the outset, would submit that the mandate of Rule 92(3) of the CGST Rules has been completely overlooked by respondent No.2 in passing the impugned order, which contemplates that a notice be issued and an opportunity be granted to the petitioner to furnish a reply within fifteen days from the receipt of such notice and only after considering the reply and after granting an opportunity of a hearing, an order to be passed. It is submitted that such mandatory requirements are given a complete go-by in passing the impugned order, is his contention. In support of his contention, Dr. Kantawala has placed reliance on the decision of this Court in **Haren Textiles Pvt. Ltd. Vs. Dy. Commissioner of State Tax**¹ wherein considering the mandate of the such Rule, the Court has set aside a similar order and directed fresh inquiry. Also similar view was taken by the Division Bench of the Jharkhand

¹ (2024)24 Centax 209 (Bom)

High Court in the case **Carbon Resources Pvt. Ltd. Vs. Union of India & Ors.**² decided on 26 November 2025. Further also referring to Rule 92(3) of the CGST Rules, Dr. Kantawala submits that it ought not to be that the concerned officer of the Revenue does not adhere to the requirement of law that is to comply with the said Rule and take an arbitrary approach in passing such order as in the present case. It is his submission that this has caused serious prejudice to the assessee but also has generated litigation which, according to him, is sheer waste of valuable time of the Court. In this context, he has placed reliance on the order passed by the learned Single Judge of the Madras High Court in **TVL.C.Ragupathi Contractor Vs. Deputy State Tax Officer**³ in which the Court has commented on such approach of the officials of the Revenue observing that it would pave way for multiplicity of litigations, not only wasting the time of the officer concerned, but also valuable judicial time. Such observations are required to be noted, which read thus:

“9. No doubt, sending notice by uploading in portal is a sufficient service, but, the Officer who is sending the repeated reminders, inspite of the fact that no response from the petitioner to the show cause notices etc., the Officer should have applied his/her mind and explored the possibility of sending notices by way of other modes prescribed in Section 169 of the GST Act, which are also the valid mode of service under the Act, otherwise it will not be an effective service, rather, it would only fulfilling the empty formalities. Merely passing an ex parte order by fulfilling the empty formalities will not serve any useful purpose and the same will only pave way for multiplicity of litigations, not only wasting the time of the Officer concerned, but also the precious time of the Appellate Authority/Tribunal and this Court as well.”

6. On the other hand, Mr. Ochani, learned Counsel appearing for the

2 Writ Petition (T) No.3532 of 2025

3 (2026)39 Centax 321 (Mad.)

Revenue has supported the impugned order. He has relied on the reply affidavit filed on behalf of the respondent of Shri. Shivaji M. Suralkar, Assistant Commissioner, CGST and C. C. Ex. Nashik-II Division, justifying the order, as the deponent of the affidavit itself has passed the order. On perusal of the affidavit, it appears that the only contention as urged by the officer is that the petitioner ought to have filed reply on portal and ought not to have filed through e-mail, and therefore, it was presumed that no reply was filed by the petitioner, and for such reason no personal hearing was needed by the petitioner, is the reply. The relevant paragraphs in the reply affidavit are required to be noted which read thus:

6.1 However, the petitioner now claims to have filed a reply on 19.12.2025 via email, thereby claiming to have complied with the prescribed timeline in the show cause notice (RFD-08). However, a critical examination of the purported reply reveals that the petitioner has conspicuously failed to invoke the provisions of Rule 92(3) of the CGST Rules, 2017 which requires him to file a reply online under RFD 09. Reply by mail cannot be treated as compliance of filing a reply through the portal in RFD 09 when the petitioner has never requested for a hard copy or mail copy of the SCN and has accepted the SCN issued in RFD-08 online as a valid SCN. If that be the case, the reply should have been filed online through the RFD -09 form As As no such reply was filed, it was presumed that the petitioner is not interested in filing a reply and does not need a Personal Hearing. Therefore, the petitioner's allegation that principles of natural justice have been violated is wholly misconceived, unfounded and devoid of any legal merit.

.. . . .

10. The show cause notice issued in Form RFD-08 dated 12.12.2025 categorically and unambiguously granted a period of seven days for submission of the reply. The petitioner failed to submit any reply electronically through the common portal by 19.12.2025 or at any time thereafter. As no reply appeared on the common portal, and no extension for submission of reply was sought, the proper officer had reasonable and justified grounds to conclude that the petitioner had nothing to say in the matter and did not require any personal hearing. It is also significant to note that while the date mentioned in the alleged reply is 15.12.2025, the petitioner failed to file the same through the common portal. This inconsistency further undermines the petitioner's case. It is further submitted that the frequently Asked Questions (FAQs) available online have expressly clarified the procedure to be followed. Relevant screenshots of the website are reproduced below:

11. The aforementioned screenshots, it is abundantly clear and beyond any shadow of doubt that the department has explicitly specified that notices in Form RFD-08 will be received through the common portal by the taxpayer, and any reply must be filed by clicking the hyperlink "reply" button visible in the column of 'due date of reply'. The reply page displays auto-populated reference numbers and refund application details."

7. It is, therefore, Mr. Ochani's submission that the petition would not call for any interference, it is required to be rejected.

8. Having heard learned Counsel for the parties and having perused the records, there appears to be much substance in the contention as urged by Dr. Kantawala, in contending that the approach of respondent No.2 was totally flawed in passing the impugned order. We are in agreement with the petitioner that there is a specific requirement under Rule 92(3) of the CGST Rules that a notice be issued in Form GST RFD-09, on which a time of fifteen days, be made available to the persons to whom it is issued to reply, and only after considering the reply, if any, filed within a period of fifteen days, and after an opportunity of hearing being granted, an order on such notice can be passed. It is imperative to note the provisions of Rule 92(3) of the CGST Rules, which read thus:

"Rule 92 Order sanctioning refund

1.

2.

(3) Where the proper officer is satisfied, for reasons to be recorded in writing, that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant, he shall issue a notice in FORM GST RFD-08 to the applicant, requiring him to furnish a reply in FORM GST RFD-09 within a period of fifteen days of the receipt of such notice and after considering the reply, make an order in FORM GST RFD-06 sanctioning the amount of refund in whole or part, or rejecting the said refund claim and the said order shall be made available to the applicant electronically and the provisions of sub-rule (1) shall, mutatis mutandis, apply to the extent refund is allowed:

Provided that no application for refund shall be rejected without giving the applicant an opportunity of being heard."

9. The mandate of Rule 92(3) is thus clear, which necessarily applied in the

facts of the petitioner's case. However, it is surprising to note as to how and on what basis respondent No.2 could issue a show cause notice in question and provide seven days time to file reply to the show cause notice as clearly seen from the last paragraph of the show cause notice, where respondent No.2 states "*The applicants are directed to submit the reply to this Show Cause Notice within seven days failing which the refund will be disposed of as proposed.*" Thus, the officer has taken on himself to sideline the Rule to exercise discretion contrary to the requirement of the rule, by substituting the period of filing reply from fifteen days to seven days. Thus, the notice itself to that effect was illegal and contrary to the provisions of Rule 92(3) of the CGST Rules.

10. We find that the illegality does not stop at this, inasmuch as there was no verification on the part of respondent No.2 to the petitioner's response as made by e-mail, when there were prior corresponding e-mails and in the same trail the petitioner on 19 December 2025 addressed an e-mail attaching the reply dated 15 December 2025. This was not verified and respondent No.2 proceeded to immediately pass an order on the next day, and that too without issuing any notice to the petitioner to grant an opportunity of a personal hearing, as clearly stipulated under the proviso below sub-rule (3) of Rule 92. Thus, looked from any angle, the action of respondent No.2 in passing the impugned order, was in the teeth of Rule 92(3) of the CGST Rules.

11. We hence find substance in the contentions of Dr. Kantawala, as to how an officer who is supposed to be trained and aware about the mandate of the legal provision, can at all give a complete go-by to the compliance of the statutory rules

so as to take a position as if such Rule does not exist when he issued a notice of seven days, completely discarding the further procedure of an opportunity of hearing being made available to the petitioner, and with a haste, immediately passing an order on the next day i.e. on 20 December 2025. Such approach, in our opinion, apart from being arbitrary, is certainly in the teeth of the regime of law as noted hereinabove, as also conducive to the norms of fairness and reasonableness expected from the official machinery. As to why the officers disregard the rules and proceed to pass the order, is something which the higher official or Board would be required to consider, as we are not informed on anything as to why such undue haste is being shown by the officers which causes serious prejudice to the assessee. Such haste thus is completely opposed to the rule of law and as rightly pointed out by Dr. Kantawala that such approach on behalf of the officers apart from causing a serious prejudice to the assessee's, also generates unwarranted litigation, when not only the mandate of law as contained in Rule 92(3) is clear but also the decisions of this Court amplify this position. Dr. Kantawala in such context has relied upon the decision in the case of **Haren Textiles Pvt. Ltd.** (supra), in which in similar circumstances, the Court has set aside the orders impugned therein. The observations as made by the Court in such order are required to be noted which read thus:-

“3. The Petitioner applied for refund to the Respondents. By orders at Exhibit-C collectively (pages 129 in 190) and Exhibit-D collectively (pages 191 to 283) refunds for some periods were granted and for others, rejected.

4. Aggrieved by the portion of the above impugned orders rejecting the refunds, the Petitioner has instituted this petition. The Petitioner's basic grievance relates to non-compliance with the provisions of Rule 92(3) of the Central Goods and Services Tax (CGST) Rules, 2017. Rule 92(3) reads as follows:

92. Order sanctioning refund.-

(3) Where the proper officer is satisfied, for reasons to be recorded in

writing, that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant, he shall issue a notice in FORM GST RFD-08 to the applicant, requiring him to furnish a reply in FORM GST RFD-09 within a period of fifteen days of the receipt of such notice and after considering the reply, make an order in FORM GST RFD-06 sanctioning the amount of refund in whole or part, or rejecting the said refund claim and the said order shall be made available to the applicant electronically and the provisions of sub-rule (1) shall, mutatis mutandis, apply to the extent refund is allowed:

Provided that no application for refund shall be rejected without giving the applicant an opportunity of being heard.”

5. The Respondents have filed an affidavit that a hearing was given to the representative of the Petitioner. However, the same has not been made good. In any Rule 92(3) contemplates issue of a notice to the applicant to show cause as to why refund should not be ordered and upon considering the reply of the applicant, an order has to be made. The proviso also states that no application for refund shall be rejected without giving the applicant an opportunity of being heard.

6. Accordingly, we set aside the impugned orders to the extent they deny the Petitioner a refund. The Respondents will now have to comply with the requirements of Rule 92(3) and decide the matter afresh as expeditiously as possible.”

12. In the aforesaid circumstances, the petition needs to succeed. It is accordingly allowed in terms of the following order:-

ORDER

- (i) The impugned order dated 20 December 2025 is quashed and set aside.
- (ii) Respondent No.2 is directed to issue a fresh notice to the petitioner as per the mandate of Rule 92(3) of the CGST Rules and in the event a reply to the said notice is received, the petitioner be granted an opportunity of hearing and fresh order needs to be passed in accordance with law.
- (iii) All contentions of the parties in that regard are expressly kept open.
- (iv) No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)