

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.2554 OF 2026

Midas Tankers Private Limited,
Office No.617, The Treat Eastern Galleria,
Plot No.20, Sector-4,
Nerul West, Mumbai-400 706.

Petitioner

versus

1. Union of India
through the Secretary,
Ministry of Finance, Department of Revenue,
North Block, New Delhi-110 001.
2. Additional Commissioner of State Tax,
Konkan Bhavan, CBD Belapur,
Navi Mumbai-400 614.
3. The Deputy Commissioner of State Tax,
RAI-AUD-E-0003 (Raigad Audit-503),
Cabin No.218, Pot No.D-207,Rupa renaissance,
TTC Industrial Area, MIDC, Turbhe,
Navi Mumbai-400 705.
4. The State of Maharashtra
through Principal Secretary (Finance),
Mantralaya, Mumbai-400 032.

Respondents

Mr.D.B.Shroff, Senior Advocate, with Mr.Durgesh Nadkarni i/by Mr.Ashok Singh
for Petitioner.

Ms.Shruti D.Vyas, Additional Govt.Pleader with Mr.Aditya R.Deolekar, APP, for
Respondent State.

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

DATE: 2nd April 2026

P.C.

1. This petition under Article 226 of the Constitution of India has been
filed praying for the following substantive reliefs-

“a) this Hon’ble Court may be pleased to issue Writ of Certiorari or any other appropriate Writ or direction to setting aside/quashing the Show cause Notice No.DC/RAI-AUDIT-E-0003/DRC-01/2021-22/25-26/B-104, NAVI MUMBAI dated 24-9-2025 (Exhibit-C) and Order No. DC/RAI-AUDIT-E-0003/DRC-07/2021-22/25-26/B-135, Navi Mumbai dated 26-12-2025 passed by the Respondent no.3 (Exhibit-F);

b) This Hon’ble Court may be pleased to issue Writ of Mandamus or any other appropriate writ and/or direction to stay the proceedings of Show cause notice No.DC/RAI-AUDIT-E-0003/DRC-01/2021-22/25-26/B-104, NAVI MUMBAI dated 24-9-2025 and Order No. DC/RAI-AUDIT-E-0003/DRC-07/2021-22/25-26/B-135, Navi Mumbai dated 26-12-2025 passed by the Respondent no.3.”

2. The primary grievance of the Petitioner is that the show-cause notice No. DC/RAI AUDIT-E-0003/DRC-01/2021-22/25-26/B-104, Navi Mumbai, dated 24th September 2025 (hereinafter referred to as the “impugned show-cause notice”) and the order bearing No. DC/RAI-AUDIT-E-003/DRC-07/2021-22/25-26/B-135, Navi Mumbai dated 26th December 2025 passed by Respondent No. 3 (hereinafter referred to as the “impugned order”) terming the place of supply of transportation, service of transportation of goods as India, i.e., taxable territory and holding the Petitioner liable for Goods and Services Tax (GST) is arbitrary and against the mandate of law.

3. The facts lie in a narrow compass, which are as follows:-

(i) The Petitioner is engaged in the business of providing vessels services on hire and freight basis and is registered under the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act) and holds registration No. GSTIN-27AALCM1038L1Z8. On 18th July 2025, in the normal course of business, the Petitioner’s records were audited for the period 2021-2022 and objections were raised, i.e., tax on outward supply of service (POS India) and in respect of ineligible refund claim by letter of even date bearing No. DCST/RAI-AUD-E-0003/Audit findings/2021-22/2025-26/B-17 Navi Mumbai.

(ii) On 6th August 2025, the Petitioner filed a reply of even date and made submissions in respect of audit objections raised, supported by judicial precedents and explaining the facts of the Petitioner's case. Respondent No. 3 without considering the reply filed by the Petitioner to the audit objections, issued the impugned show cause notice dated 24th September 2025, terming the place of supply of transportation service of transportation of goods as India i.e. taxable territory and holding that the Petitioner was liable for the payment of GST in respect thereof.

4. Being aggrieved by the issuance of the impugned show cause notice dated 24th September 2025, the Petitioner has preferred Writ Petition No. 17243 of 2025 on 12th November 2025, which is pending adjudication.

5. On 27th October 2025, 13th November 2025, 8th December 2025 and 12th December 2025, Respondent No. 3 granted a personal hearing to the Petitioner, whereat the Petitioner through their authorized representative submitted that the adjudication proceedings in respect of the impugned show cause notice be kept in abeyance, inasmuch as, the Petitioner has filed Writ Petition No. 17234 of 2025 wherein, *inter alia*, one of the issues of challenge was in respect of validity of Section 13(9) of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the IGST Act), which was omitted with effect from 1st October 2023 without a saving clause and hence the effect of such action goes back to the position as was there in the CGST Act prior to 1st October 2023. The Petitioner's contention was that the impugned show cause notice was issued without jurisdiction and was not sustainable in law.

6. Respondent No. 3, without acceding to the request made by the Petitioner to keep the proceedings in abeyance as Writ Petition No. 17243 of 2025 was pending, passed the impugned order dated 26th December 2025 confirming the Integrated Goods & Service Tax (IGST), Central Goods & Service Tax (CGST) and State Goods & Service Tax (SGST) demand of Rs. 14,13,56,125/-, Rs.84,38,294/- and Rs.84,38,294/- respectively, totaling to Rs. 15,82,32,713/- which was inclusive of tax, interest and penalty. It is this action on the part of the Respondents in issuing the impugned show cause notice and passing the impugned order, which is subject matter of challenge in the present petition.

7. Heard Mr. Shroff, learned Senior Advocate, with Mr. Durgesh Nadkarni instructed by Mr. Ashok Singh for the Petitioner and Ms. Shruti Vyas, Additional Govt. Pleader with Mr. Aditya Deolekar, APP for the Respondents. With the assistance of the learned counsel for the parties, we have perused the papers and proceedings and proceed to decide the present petition.

8. At the outset, learned Senior Counsel appearing for the Petitioner has submitted that the challenge as mounted in the present petition, stands covered by the decision of the Supreme Court in the case of **Union of India Vs. Mohit Minerals Pvt. Ltd.**¹, wherein a view has been taken that the ocean freight levied in a Cost, Insurance, and Freight (CIF) contract paid by a foreign seller to a foreign shipping company, if levied/ imposed on an Indian importer on the service aspect of the CIF contract, the same would be in violation of principle of composite supply, enshrined under Section 2(30) read with Section 8 of the CGST Act. This

¹ (2022) 10 SCC 700

is in view of the fact that an Indian importer is liable to pay IGST on the composite supply comprising of supply of goods and supply of services of transportation, insurance etc. in a CIF contract, and hence a separate tax levied on an Indian importer for supply of service by a shipping line, would be in violation of Section 8 of CGST Act. He further submitted that the impugned order and the impugned show cause notice has been passed in violation of the principles of natural justice, inasmuch as the submissions made by the Petitioner have not been considered, and also the request of the Petitioner to keep the proceedings in abeyance in view of pendency of Writ Petition No. 17243 of 2025 in this Court, has not been taken into consideration. He also submitted that the impugned show cause notice did not bear Documentation Identification Number (DIN) as per Central Board of Indirect Taxes and Customs (CBIC) Circular No.128/47/2019-GST, dated 23rd December 2019, and it is mandatory that the DIN number has to be noted on any communication issued by the officers of CBIC to the tax payers and other concerned persons. He also submitted that the Reference Number (RFN) generated on portal of GST was not there on the impugned show cause notice, and hence the said show cause notice in view of the settled principles of law and instructions as issued by the Board, by way of the aforesaid Circular, could be termed as non-existent and *non est*. He further submitted that in the facts of the present case, the Petitioner is registered and located in India, and the supplier of goods is located outside India, who has booked the Petitioner's service for the goods to be sent to India, and borne/paid the consideration on the availment of the said services to the Petitioner by paying in foreign exchange. He therefore

submitted that as per the provisions of Section 13(9) of the IGST Act, in the present case, the place of supply was to be determined as per the aforesaid provisions and since the Petitioner is located in India and the recipient of the service i.e. the supplier of goods was located outside India, the said location had to be determined as per the provisions of Section 13 of the IGST Act. He further submitted that in the facts of the present case, the provisions of Section 13(9) of the IGST Act which was applicable during the period 2021-22 would apply and the said provision during the relevant period is reproduced below :

“The place of supply of service of transportation of goods, other than by way of mail or courier, would be the place of destination of such goods”.

He therefore, submitted that in view of the aforesaid provisions place of supply of goods, in the facts of the present case, was the destination of goods i.e. delivery point which is India. Further the aforesaid section 13(9) was omitted with effect from 1st October 2023 and it amended section 13(2) of the IGST Act, which made the place of supply the location of recipient of the service and no longer the destination of goods to where the supply was made. For ease of reference, the amended Section 13(2) of the Act is reproduced below :

“Section 13. Place of supply of services where location of supplier or location of recipient is outside India. -

... ..

(2) The place of supply of services except the services specified in sub-section (3) to (13) shall be the location of the recipient of services:

Provided that where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.”

9. It was next submitted that Section 13(9) which was amended with effect from 1st October 2023, did not have a saving clause, and hence the effect thereof

goes back to its origin, and hence the present demand of tax on the Petitioner was not sustainable, inasmuch as, the shipping line i.e. the Petitioner is located in India, and the availer of the said service is located outside India, and since the recipient of service is residing outside India, the jurisdiction of India and GST Tax is applicable to India and not the service availer who is outside India, the said tax could not be collected from the Petitioner. Further, he submitted that the shipping line i.e. the Petitioner was not chargeable to the Reverse Charge Mechanism (RCM), and hence the said tax could not be demanded from the Petitioner. He further submitted that even otherwise, as in the facts of the present case, the contract for supply of service/goods was between the Indian buyer of goods and foreign seller of goods, the Indian buyer had paid customs duty on the composite price i.e. goods and freight, and therefore the same being in consonance with the provisions of the Customs Act, 1962 (hereinafter referred to as Customs Act) read with Customs Valuation (Determination of Valuation of Imported Goods) Rules, 2007, the tax could not be once again collected from the shipping line i.e. the Petitioner as the service provider. This would amount to taxing the same service twice. He therefore submitted that once the goods were imported on Cost and Freight (C&F) basis, which is assessable value for discharging duty under Section 14 of the Customs Act, then such transaction ceases to be a supply of service and it is to be treated as supply of goods and recovery of tax as supply of service was not sustainable. He further submitted that the same would amount to double taxation on the same transaction. He therefore submitted that the facts of the present case are squarely

covered by the decision rendered by the Supreme Court in the case of Mohit Minerals (*supra*).

10. *Per contra*, Ms. Shruti Vyas along with Mr. Aditya R.Deolekar on behalf of the Respondents has submitted that the present petition deserves to be dismissed and the impugned show cause notice and impugned order have been correctly passed, whereby the refund granted to the Petitioner erroneously has been recovered. She further submitted that in the facts of the present case the provisions of the amended Section 13(9) of the Act would be applicable and the Petitioner would be liable for IGST under forward charge being place of supply i.e. India (the taxable territory).

11. At the outset, we are of the view that there is no dispute that in the facts of the present case the Petitioner provides vessel services on a Hire and Freight basis, and further that the buyer of the goods pays custom duty on freight and hence the goods are imported on CIF basis. It is our view that once the aforesaid goods are imported on a CIF basis and the customs duty in respect thereof has been discharged by the buyer of the goods, then the same amount cannot be liable for IGST under forward mechanism in the hands of the Petitioner. The liability to pay the tax, therefore, cannot be foisted on the Petitioner, and the supply of services which the Petitioner undertakes of transportation of goods on behalf of the importer becomes a composite supply, which does not attract an additional tax in the hands of the Petitioner. The Revenue has nowhere disputed the aforesaid transaction and has wrongly invoked the provisions of Section 13(9) of the IGST Act to tax the present Petitioner. We are further in agreement with the learned

counsel on behalf of the Petitioner that the facts in the present case stand on the same footing as that in the case of Mohit Minerals (supra), and that the said decision squarely covers the Petitioner's case too.

12. In the case of Mohit Minerals (supra), the Supreme Court categorically held that in a CIF Contract, the supply of goods is accompanied by the supply of services of transportation and insurance, the responsibility of which lies on the seller. The supply of service of transportation by the foreign shipper forms a part of bundle of supplies between the foreign exporter and the Indian importer, on which IGST is payable under Section 5(1) of the IGST Act read with Section 20 of the IGST Act, and Section 8 and Section 2(30) of the CGST Act. It was further held that to levy the IGST on the supply of the service component of the transaction would contradict the provisions enshrined in Section 8 and be in violation of the Scheme of the GST legislation. In view thereof, it was held that a tax on the supply of service which had already been included by the Legislation as a tax on the composite supply of goods could not be allowed. Relevant paragraphs of the aforesaid decision are reproduced below: -

“164. In the present case, the question is whether the imposition of IGST on supply of services can be sustained when there is a concomitant imposition of IGST on supply of goods. However, we must first analyse the context in which the IGST is levied on the import of goods in this case.

165. The provisions of composite supply in the CGST Act (and the IGST Act) play a specific role in the levy of GST. The idea of introducing ‘composite supply’ was to ensure that various elements of a transaction are not dissected and the levy is imposed on the bundle of supplies altogether. This finds specific mention in the illustration provided under Section 2(30) of CGST Act, where the principal supply is that of goods. Thus, the intent of the Parliament was that a transaction which includes different aspects of supply of goods or services and which are naturally bundled together, must be taxed as a composite supply.

167. The Union Government has urged that this Court must look beyond the text of the contract between the foreign shipping line and the foreign exporter to

identify the Indian importer as the recipient of the services. This Court has upheld the validity of the impugned notifications on this ground. The Union Government is contradicting the main plank of its submission now by contending that the two legs of the transaction are separate standalone agreements. That would imply, that while on the one hand the Union Government seeks to levy tax on the Indian importer by going beyond the text of the contract between the foreign shipping line and foreign exporter (for the purpose of identifying the Indian importer as the recipient of services), on the other hand, as far as the submissions on composite supply are concerned, the Union Government urges that the contracts must be viewed as separate transactions, operating in silos. We are unable to subscribe to this view. The Union of India cannot be heard to urge arguments of convenience – treating the two legs of the transaction as connected when it seeks to identify the Indian importer as a recipient of services while on the other hand, treating the two legs of the transaction as independent when it seeks to tide over the statutory provisions governing composite supply.

168. This Court is bound by the confines of the IGST and CGST Act to determine if this is a composite supply. It would not be permissible to ignore the text of Section 8 of the CGST Act and treat the two transactions as standalone agreements. In a CIF contract, the supply of goods is accompanied by the supply of services of transportation and insurance, the responsibility for which lies on the seller (the foreign exporter in this case). The supply of service of transportation by the foreign shipper forms a part of the bundle of supplies between the foreign exporter and the Indian importer, on which the IGST is payable under Section 5(1) of the IGST Act read with Section 20 of the IGST Act, Section 8 and Section 2(30) of the CGST Act. To levy the IGST on the supply of the service component of the transaction would contradict the principle enshrined in Section 8 and be in violation of the scheme of the GST legislation. Based on this reason, we are of the opinion that while the impugned notifications are validly issued under Sections 5(3) and 5(4) of the IGST Act, it would be in violation of Section 8 of the CGST Act and the overall scheme of the GST legislation. As noted earlier, under Section 7(3) of the CGST Act, the Central Government has the power to notify an import of goods as an import of services and vice-versa:

“7. Scope of supply—
[...]

(3) Subject to the provisions of [sub-sections (1), (1A) and (2)]16, the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—

(a) a supply of goods and not as a supply of services; or

(b) a supply of services and not as a supply of goods.”

No such power can be noticed with respect to interpreting a composite supply of goods and services as two segregable supply of goods and supply of services.

170. We are in agreement with the High Court to the extent that a tax on the supply of a service, which has already been included by the legislation as a tax on the composite supply of goods, cannot be allowed.”

(emphasis supplied)

13. We are therefore of the view that the facts of the present case are squarely covered by the decision of the Supreme Court in Mohit Minerals (supra), and hence the impugned order dated 26th December 2025 and the impugned show cause notice dated 24th September 2025 passed by Respondent No. 3 are liable to be quashed and set aside. We therefore deem it appropriate to pass the following orders which will meet the ends of justice: -

ORDER

- i. The impugned show cause notice dated 24th September 2025 and the impugned order dated 26th December 2025 are hereby quashed and set aside;
- ii. The consequential refund which was sought to be disallowed by the impugned show cause notice dated 24th September 2015 and the impugned order dated 26th December 2025, and which was due to the Petitioner, shall be paid along with interest, within a period of four weeks from the date this order is made available to the Respondents by the Petitioner.
- iii Writ petition is disposed of in the above terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)