

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.5268 OF 2024

Apollo India Services LLP

Petitioner

versus

The State of Maharashtra and others

Respondents

WITH

WRIT PETITION NO.467 OF 2026

Apollo India Services LLP

Petitioner

versus

The State of Maharashtra and others

Respondents

WITH

WRIT PETITION NO.4423 OF 2025

Apollo India Services LLP

Petitioner

versus

The State of Maharashtra and others

Respondents

Mr.Rohan Shah, Senior Advocate, with Mr.Prithviraj Choudhari, Mr.Mohammad Anajwala, Ms.Diva Devarsha, Ms.Kausarjahan Sayed, Mr.Aansh Desai i/by Pythagoras Legal for Petitioner.

Ms.Jyoti Chavan, Additional Govt.Pleader in WP.5268/2025 for State.

Mr.Amar Mishra, AGP, for State in WP Nos.467/2026 and 4423/2025.

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

DATE: 29th April 2026

P.C.

1. These three petitions involve common issues of law and facts except for the dates of the impugned orders and the amounts of refund and therefore can be

conveniently disposed of by this common order. For the sake of convenience, the facts and prayers in respect of Writ Petition No.5268 of 2024 being the lead petition are reproduced below.

2. The prayers in the Writ Petition No.5268 of 2024 praying for the following substantive reliefs are as under :

“(a) this Hon’ble Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction for calling for the records of the present case and after going through the legality and validity thereof be pleased to quash and set aside the Impugned Order dated 11.10.2024 passed by the Respondent NO.4 (Exhibit J hereto).”

3. The facts lie in a narrow compass. The Petitioner is limited liability partnership firm and is primarily stated to be engaged in exporting operational support service (trade accounting, data reconciliation), finance support service (back office processing, accounting, book keeping, MIS related activities), risk support service (assistance in operational risk management and monitoring of compliance with the internal risk policies, to Apollo Management Holdings, L.P, a Delaware limited partnership registered in United States of America (AMHUS) located outside India. The Petitioner is registered with the Goods and Service Tax Department bearing GSTIN No.27ABMFA8496R2Z6 and the certificates of incorporation of both the Petitioner and the service recipient AMHUS being incorporated as separate legal entities under the respective laws is issued. The Petitioner exports services outside India on payment of Goods and Service Tax (GST) and then claims refund of the GST paid on invoices issued with payment of tax, in terms of Section 54 of the Central Goods and Services Tax Act, 2017 (CGST Act) and Maharashtra Goods and Services Tax Act, 2017 (MGST Act) read with Section 16 of the Integrated Goods and Services Tax Act, 2017 (IGST Act).

4. The Petitioner on 9th June 2023 filed an application for refund of GST on account of export of services for the period September-2022 to the tune of Rs.3.42 crores. The said application was acknowledged vide Form RFD-02 on 26th June 2023. The Petitioner also furnished a complete set of physical documents on 7th July 2023 which included copy of export invoice with the FIRC copy, copy of service agreement entered into with AMHUS, sample copy of inward invoices, copy of Form GSTR 1 and GSTR 3B filed for the relevant period, copies of all the declarations and undertakings and copy of Form GSTR 2B evidencing the input invoices utilized towards payment of IGST amount. On 10th July 2023 in terms of the provisions of Section 54 of the CGST/MGST Act, provisional refund of 90% refund amount was sanctioned by Respondent no.3 vide provisional refund order in Form RFD-04, of even date. The payment order also was issued in Form RFD-05 and 90% provisional refund amount was credited to the account of the Petitioner.

5. On 25th August 2023 Respondent no.3 issued a show cause notice to the Petitioner asking the Petitioner to show cause as to why the refund claim should not be rejected for non-submission of certain documents and non-fulfillment of conditions prescribed in Section 2(6) of IGST Act. The show cause notice also directed the Petitioner to file reply and appear on 11th September 2023 for a personal hearing. The Petitioner by letter dated 11th September 2023 addressed to Respondent no.3 requested for additional time to furnish the information as sought for by the show cause notice dated 25th August 2023. Respondent no.3, however, without acceding to the request made by the Petitioner

to grant them further time to submit additional information, proceeded to pass an order dated 14th September 2023 and rejected the Petitioner's refund claims solely on the ground of non-filing of reply and not furnishing the required documents.

6. Being aggrieved by the aforesaid order passed by Respondent no.3, the Petitioner preferred an appeal before Respondent no.4 on 8th November 2023 and Respondent no.4 conducted multiple hearings on 13th December 2023, 25th January 2024, 26th May 2024, and 5th August 2024 on the appeal filed before Respondent no.4. It is the Petitioner's contention that during the personal hearing held on 5th August 2024, Respondent no.4 directed the Petitioner to submit suitable explanation and proof evidencing that the Petitioner and AMHUS were not merely establishments of distinct persons. In response to the aforesaid, the Petitioner requested for time to submit the aforesaid details and thereafter by its letter dated 28th August 2024 made its submissions in that regard complying with the issues as raised by Respondent no.4 submitted at the time of personal hearing held on 5th August 2024.

7. Respondent no.4 proceeded to dismiss the appeal filed by the Petitioner vide order dated 11th October 2024 (impugned order) and sought to reject the refunds as claimed by the Petitioner. The Petitioner contends that the impugned order rejecting the refunds was passed on the premise that liaison activity performed by the Petitioner was a service to itself and the service recipient i.e. AMHUS could not be treated as a separate person and hence the nature of services rendered by the Petitioner to AMHUS would not fall within the purview of supply under the GST Act. On the basis of the aforesaid finding, Respondent no.4

rejected the refund as claimed by the Petitioner and upheld the order dated 14th September 2023 passed by the adjudicating authority.

8. It is in the backdrop of the above facts that the Petitioner being aggrieved by the impugned order passed by Respondent no.4 has filed present petition.

9. We have heard Mr.Rohan Shah, Senior Advocate, with Mr.Prithviraj Choudhari, Mr.Mohammad Anajwala, Ms.Diva Devarsha, Ms.Kausarjahan Sayed, Mr.Aansh Desai for Petitioner, Ms.Jyoti Chavan, Additional Govt.Pleader, and Mr.Amar Mishra, AGP, for State. We have perused the papers and proceedings with the assistance of learned counsel for the parties. It is Mr.Shah's submission that the impugned order is passed without dealing with/adverting to the submissions made by the Petitioner wherein the Petitioner had categorically raised the plea that the Petitioner and the service recipient are distinct persons and not merely establishments of distinct persons. The Petitioner, therefore, submitted that they had rightfully claimed the refund of ITC and the same amounted to export of services, which gave rise to the refund as claimed by the Petitioner. Mr.Shah further submitted that before passing the impugned order, Respondent no.4 had not considered the submissions made by the Petitioner by way of their reply dated 28th August 2024 and therefore the impugned order was passed in contravention of principles of natural justice, inasmuch as it did not consider the crucial aspect of the Petitioner and service recipient AMHUS being distinct and separate person. He further submitted that Respondent no.4 in the impugned order for the very first time held that the Petitioner undertakes liaison services and hence is an

intermediary, and this was never put to the Petitioner to offer a chance to the Petitioner to meet the aforesaid finding rendered by Respondent no.4. It was, therefore, submitted that the impugned order was passed without giving a proper hearing or without adverting to the submissions made by the Petitioner. He therefore, submitted that since the impugned order was passed on a non-application of mind, was not a reasoned order and had only relied on certain clauses of the agreement entered into between the Petitioner and AMHUS without rendering a finding in respect thereof, the consequent rejection of refund as claimed by the Petitioner is also bad in law and a fresh hearing is required to be offered to the Petitioner wherein the Petitioner's refund claims should be adjudicated.

10. It is further submitted that this Court in a series of decisions which were based on similar facts and circumstances and where impugned orders were passed without considering the submissions made by the assessee, has remanded the matter back to the Appellate Authority for *de novo* consideration, referring particularly to the decision rendered by a co-ordinate Bench of this Court in case of **Sundyne Pumps and Compressors India Pvt.Ltd.Vs. Union of India**¹. Mr.Shah also sought to place reliance on the following decisions :

I. Lubrizol Advance Materials India Ltd. Vs Union of India and others (Writ Petition No.987 of 2026);

II. Vistex Asia Pacific Private Limited Vs. Union of India and others (Writ Petition No.4852 of 2022);

III. V.Ships India Pvt.Ltd. Vs. Union of India and others (Writ Petition No.1534 of 2025);

¹2025-SCC OnLine-Bom-2372

IV. Magna Automotive India Private Limited Vs Union of India and others (Writ Petition No.6501 of 2024).

11. Per contra, Ms.Chavan, learned AGP on behalf of the State fairly submitted that the proceedings could be remanded back to the adjudicating authority to pass a well reasoned and speaking order and therefore the plea as made by the Petitioner could be accepted.

12. Having heard the learned counsel for the parties and considering that a consistent view has been taken by this Court in the orders referred to by the learned counsel for the Petitioner, as enumerated above, we find substance in the contention as urged on behalf of the Petitioner. We find that no specific finding has been recorded in the impugned order before rejecting the refund application, as claimed by the Petitioner, and therefore a reasoned and speaking order is required to be passed by Respondent No.4 prior to the rejection of refund. The impugned order, therefore, suffers from the vice of being a non-speaking order vis-a-vis rejection of the refund claim of the Petitioner. We also note that the impugned order has not rendered any finding in respect of refund claims made by the Petitioner and has only reproduced the clauses of the agreement entered between the Petitioner and the AMHUS and therefore the impugned order is a bald and non speaking order.

13. In light of the aforesaid discussion, we are inclined to pass the following order which will meet the ends of justice.

ORDER

(i) The impugned order dated 11th October 2024 is quashed and set aside;

- (ii) The proceedings stand remanded to the Adjudicating Authority/Original Authority for *de novo* consideration to consider the refund claim of the Petitioner and for a fresh order to be passed in accordance with law, after an opportunity of being heard is granted to the Petitioner;
- (iii) The Adjudicating Authority/Original Authority shall complete the determination within a period of three months from the date of this order;
- (iv) All contentions of the parties are expressly kept open;
- (v) Writ Petition No.5268 of 2024 stands disposed of in the aforesaid terms. No costs.

14. In view of the order passed in Writ Petition No.5268 of 2024, Writ Petition Nos.467 of 2026 and 4423 of 2025 are also disposed of in the aforesaid terms.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)