

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

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WRIT PETITION NO. 983 OF 2026

Vinay Hiroo Thadani

...Petitioner

Versus

Deputy Commissioner of CGST and
Central Excise & Ors.

...Respondents

Mr. Gopal Mundhra a/w Yash Prakash i/b. Economic Laws Practice for the
Petitioner.

Mr. Subir Kumar a/w Niyati Mankad, Priyanka Singh & Diksha Pandey for
Respondent No.1 to 5.

Ms. Jyoti Chavan, Addl.G.P. for Respondent-State.

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

DATE: **4TH MARCH 2026**

P.C.

1. This Petition under Article 226 of the Constitution of India is filed
praying for the following substantive reliefs:-

“(a) This Hon’ble Court be pleased to issue an appropriate writ, order or direction in the nature thereof declaring the Impugned Provision, i.e., Section 93(1) of the Central Goods and Services Act, 2017 [Exhibit E) as ultra vires and violative of Constitution of India.

(b) In the alternative, this Hon'ble Court be pleased to read down Section 93(1) of the Central Goods and Services Act, 2017 [Exhibit E] and declare that the said provision has no application in cases where the proceedings under the Central Goods and Services Act, 2017 is initiated against the registered person subsequent to his death.

(c) 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 directions and call for records and proceedings of Impugned Order bearing No. 118/DC/CGST/MW/Dn-III/HIROO / 2024-25 dated

27.01.2025 [Exhibit A] passed by Respondent No. 1 and Impugned Order No. AC-349/ Supdt/CGST/MW/Dn-III/R-02/HIROO/2024-25 dated 30.01.2025 [Exhibit B], No. 348/Supdt/CGST/MW/Dn-III/ R-02/HIROO / 2024-25 dated 30.01.2025 [Exhibit C], and No. 347/Supdt/CGST/MW/Dn-III/R-02/HIROO/2024-25 dated 30.01.2025 [Exhibit D] passed by Respondent No. 2, and after going through the legality, validity and propriety of thereof, be pleased to set aside the same;

(d) Pending the hearing and final disposal of this Petition, this Hon'ble Court may be pleased to stay the operation of the Impugned Order bearing No. 118/DC/CGST/MW/Dn-III/HIROO/2024-25 dated 27.01.2025 [Exhibit A] passed by Respondent No. 1 and Impugned Order No. AC-349/Supdt /CGST/MW/Dn-III/R-02/HIROO/2024-25 dated 30.01.2025 [Exhibit B]; No. 348 / Supdt/ CGST/MW/Dn-III / R-02/HIROO/2024-25 dated 30.01.2025 [Exhibit C]; and No. 347 /Supdt/CGST/MW/Dn-III/R-02/HIROO/2024-25 dated 30.01.2025 [Exhibit D] passed by Respondent No. 2.;"

2. We have heard learned Counsel for the parties.
3. It is the Petitioner's case that he is being confronted with a tax recovery of his father Mr. Hiroo Jethanand Thadani. The Petitioner's father passed away on 12th September 2022. It appears from the record that the Petitioner was issued show cause notice dated 19th April 2024 raising demands qua the Input Tax Credit (ITC) stated to be illegally utilized by his father. The said show cause notice was issued after the demise of the Petitioner's father. There is an order passed on the said show cause notice. The limited grievance of the Petitioner is referring to the provisions of Section 74 and Section 93 of the CGST Act, 2017 being not applicable to the recovery in question qua the Petitioner.
4. It is the Petitioner's contention that he would not be liable to satisfy the tax dues of his father, as foisted on him by the Respondents. It is also the

Petitioner's case that the impugned order violates the principles of natural justice, as no reasons have been recorded in the impugned order passed on the show cause notice, although the Petitioner had filed a detailed reply to the show cause notice dated 7th May 2024. The Petitioner contends that none of the pleas as urged by the Petitioner have been taken into consideration in passing the impugned order.

5. On the other hand Mr. Subir Kumar, learned Counsel for the department contends that as apparent from the impugned order, the Petitioner despite several notices, did not appear before the authority, hence such contention as urged on behalf of the Petitioner, of any breach of the principles of natural justice be not entertained.

6. We have perused the record. Having heard learned Counsel for the parties, considering the peculiar facts and circumstances of the case, and more particularly when a demand, raised against the Petitioner being contended to be of the Petitioner's deceased father, we are of the opinion that the Petitioner be granted another opportunity of a hearing by the Deputy Commissioner, Division-III, CGST & Central Excise Mumbai West Commissionerate, on all contentions, the Petitioner would intend to raise. After the Petitioner is heard on all such contentions, a fresh order be passed on the show cause notice in question. If the Petitioner requires any documents in relation to the show cause notice, the same be furnished to the Petitioner on a specific application made to that effect.

7. We accordingly, direct the Petitioner to appear before the said Authority initially on 13th March 2026 at 11.00 am. Subsequent thereto, a convenient date

may be fixed by the Authority for a hearing to be granted to the Petitioner and for a fresh order to be passed in accordance with law, within a period of four weeks from the date of conclusion of the hearing.

8. All contentions of the parties in regard to the challenge of the provisions of the said Act are expressly kept open.

9. The Petition stands disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)