IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-04-2026

CORAM

THE HON'BLE Mr. JUSTICE C. SARAVANAN

WP No. 242 of 2026
AND
WMP Nos.285 & 286 of 2026

M/s.AR Cars
(Rep. by its Proprietor Mr.Krishnan Arun Prasath)
No.1, Thillai Ganga Nagar, 1st Main Road,
4th Cross Street, Nanganallur, Chennai,
Tamil Nadu- 600 061

..Petitioner(s)

Vs

1. The Commissioner (Appeals II)
   Newry Towers, 2nd Floor,
   No.2054-I, II Avenue,
   12th Main Road,
   Anna Nagar, Chennai- 600 040

2. The Additional Commissioner of GST & Central Excise
   Chennai South Commissionerate,
   MHU Complex, No.692, 5th Floor,
   Anna Salai, Nandanam,
   Chennai- 600 035.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus to call for the records of the 1st respondent in passing the impugned Order-in-Appeal No.138/2025 dated 19.06.2025 for the period 01.10.2016 to 30.06.2017 and quash the same as it dismisses the appeal filed by the Petitioner on the ground of limitation and directing the 1st respondent to accept the appeal and hear the same on merits.

For Petitioner(s): Ms.Sharanya Vijay K
for Mr.K.Vaitheeswaran

For Respondent(s): Mr.Sai Srujan Tayi
Senior Standing Counsel
and
Ms.Pooja Jain
Junior Standing Counsel

ORDER

Heard both sides and perused the materials available on record.

2.The petitioner is before this Court against the impugned order dated 19.06.2025, whereby, the petitioner's appeal against the Order-In-Original No.04/2023-ST-ADC dated 07.02.2023 read with Rectification of Mistake Order No.01/2023-ST(ADC) dated 11.09.2023 has been rejected, on the ground of limitation.

3.The demand that was confirmed by the above mentioned Order-In-Original and the above Rectification Order pertain to the tax period between 01.04.2016 and 30.06.2017 under the provisions of the Finance Act, 1994. It is the specific case of the petitioner that the petitioner had provided services to aggregators such as Ola owned by ANI Technologies Private Limited and Fast Track owned by Fast Track India Private Limited.

4.The learned counsel for the petitioner submitted that during the period in dispute, the petitioner had provided its 238 cars at the disposal of Ola and about 50 cars to Fast Track for their services and was under the *bona fide* impression that since the service was provided by aggregators, service tax liability, if any, was to be paid by tax aggregators as recipient of such service, in terms of Sl.No.11 of Notification No.30/2012-ST dated 20.06.2012, as amended from time to time.

5.The learned counsel for the petitioner has now produced certain documents from both the aggregators to state that they had indeed engaged the services of the petitioner as aggregators and that they had discharged the service tax liability on reverse change mechanism, in terms of the above Notification. As far as the impugned order rejecting the appeal filed by the petitioner on 08.04.2024 *vide* impugned order dated 19.06.2025 is concerned, the learned counsel for the petitioner would submit that the petitioner received the Rectification Order dated 11.09.2023 only on 06.02.2024 and therefore, the appeal was filed within the limitation prescribed under Section 85 of the Finance Act, 1994, as amended from time to time.

6.The writ petition is liable to be dismissed as there are abundant materials on record to indicate that the Rectification Order dated 11.09.2023 was despatched as early as 13.09.2023 and received by the petitioner on

15.09.2023. This could be in line with illustration (e) to Section 114 of the Indian Evidence Act, 1872, was in force during the material period. The presumption has to be drawn in favour of the Department, unless such presumption is rebutted by the petitioner in the manner known to law.

7.However, considering the larger issue, I am of the view that although the appeal was filed belatedly, the matter can be remitted back to the Original Authority namely, the 2nd respondent to pass a *de novo* order on merits, subject to the petitioner producing the records which were produced today before this Court to indicate that the petitioner had indeed been engaged by the above mentioned two companies, in their capacity as aggregators and they had discharged the service tax liability under reverse charge mechanism, in terms of serial No.11 to Notification No.30/12-ST dated 26.06.2012.

8.Since the demand was confirmed long before originally, on 07.02.2023 and thereafter, reaffirmed on 11.09.2023, the petitioner shall deposit another 2.5% of the disputed tax, which the petitioner would have been required to deposit, if the petitioner had filed an appeal before CESTAT. This would in addition to the 7.5% already deposited, fulfilling the mandatory 10% pre-deposit required under Section 35F read with Section 86 of the Central Excise Act, 1944.

9.If the petitioner complies with the above stipulation, the respondent shall proceed to pass a final order on merits. It is open for the 2nd respondent to call for the information from their counterpart as to whether the services of the petitioner were indeed requisitioned by the two named companies as aggregators and whether service tax was paid by them on the services provided by the petitioner. Needless to state, that the petitioner shall be heard before passing the final order.

10.This Writ Petition stands disposed of with the above observations. No costs. Connected W.M.Ps are closed.

02-04-2026

Index: Yes/No
Neutral Citation: Yes/No

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To

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C.SARAVANAN, J.

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