IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-03-2026

CORAM

THE HON'BLE Mr. JUSTICE C. SARAVANAN

WP No. 9589 of 2026
AND
WMP Nos.10338 & 10340 of 2026

M/s Mehta Export Corporation
Represented by its Partner
Mr.Bharat Mathuradas Mehta
69,Angeripalayam Road, Tirupur- 641 603

..Petitioner(s)

Vs

1. Commissioner of Central Excise, Customs and Service Tax
   6/7, ATD Street, Race Course Road,
   Coimbatore- 641 018.

2. Additional Commissioner of GST and Central Excise Coimbatore
   Office of the Principal Commissioner of GST Central Excise
   6/7ATD Street Race Course Road
   Coimbatore- 641 018.

..Respondent(s)

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records on the file of the 2nd respondent in the impugned order in Order-in-original in C.No. V/BAS/15/17/2009-ST ADJN. dated 24.12.2025 for the FY 2006-2008 passed under Section 73 of the Finance Act,1994 by the 2nd respondent and quash the same as illegal and not in accordance with law.

For Petitioner(s):	Mr.Sivaraman R
For Respondent(s):	Mr.G.Meganathan Senior Standing Counsel and Mr.S.Gurumoorthy Junior Standing Counsel

ORDER

Mr.G.Meganathan, learned Senior Standing Counsel, takes notice on behalf of the respondents.

2.This Writ Petition is being disposed of at the stage of admission itself with the consent of the learned counsel for the petitioner and the learned Senior Standing Counsel for the respondents.

3.In this writ petition, the petitioner has challenged the impugned order in Order-in-Original C.No.V/BAS/15/17/2009-ST ADJN dated 24.12.2025 passed under Section 73 of the Finance Act, 1994 by the 2nd respondent for the Financial Year 2006-2008. By the impugned order, part of the demand proposed in Show Cause Notice dated 06.08.2009 for the Financial Year 2004-2008 has been confirmed against the petitioner.

4.The impugned order itself drops the demand for the Financial Year 2004-2006 and confirmed the demand for the Financial Year 2006-2008 as detailed below:-

> "i. I hold that the extended period of limitation under proviso to Section 73(1) of Finance Act, 1994 is invokable to demand of Service Tax not paid by M/s Mehta Export Corporation as discussed supra
>
> ii. 1 confirm and demand an amount of Rs.1,05,58,238/- (Rupees One Crore Five Lakh Fifty Eight Thousand Two Hundred and Thirty Eight only) (Service Tax: Rs.1,03,15,514/+Edu.Cess: Rs.20,63,10/+ SHE:cess:

Rs.34,614/) being the service tax payable on the commission paid by M/s Mehta Export Corporation to foreign commission agents from 18.04.2006 to 31.07.2008 in terms of Section 73(2) of the Finance Act, 1994.

iii. I drop the demand of service tax amounting to Rs.42,67,870/-(Rupees Forty Two Lakh Sixty Seven Thousand Eight Hundred and Seventy only) (Service Tax: Rs.41,84,186/- + Edu.Cess: Rs.83,684/- + SHE cess:Rs.0) on M/s. Mehta Export Corporation pertaining to the period from 10.09.2004 to 17.04.2006, as discussed supra.

iv. I demand appropriate interest on Sl.no.(ii) above under Section 75 of the Finance Act, 1994 from M/s Mehta Export Corporation.

v. I impose a penalty of Rs.1,05,58,238/- (Rupees One Crore Five Lakh Fifty Eight Thousand Two Hundred and Thirty Eight only) on M/s Mehta Export Corporation under Section 78 of the Finance Act, 1994 for suppression of facts and willful intent to evade payment of tax as discussed supra. V.

vi. I drop the penalty under Section 76 of the Finance Act, 1994 on M/s Mehta Export Corporation as discussed supra.

vii. I impose a penalty of Rs.20,000/- (Rupees Twenty Thousand only) on M/s Mehta Export Corporation under Section 77 of the Finance Act, 1994 as discussed supra."

5.The issue *prima facie* appears to be covered against the petitioner on merits in terms of the decisions of the Hon'ble Supreme Court in ***Orient Crafts Ltd. vs. Union of India.,*** *(2007) 7 VST 43 and* ***Glyph International Ltd. vs. Union of India.,*** *(2012) 25 STR 209*.

6.*Prima facie*, the statement of the learned counsel for the petitioner that failure to intimate the transfer of the case to the call book earlier in respect of the show cause notice issued on 06.08.2009 is fatal, as the transfer itself was intimated for the first time on 21.02.2025.

7.The learned counsel for the petitioner has placed reliance on the decision of the Division Bench of the Bombay High court in ***Bhushan Vora vs. Union of India and 4 Others in W.P.No.389 of 2023 rendered on 10.09.2024***, wherein, the Court has taken note of the decision of the Bombay High Court in ***ICICI Home Finance Company Limited vs. The Union of India, Principal Commissioner of CGST & Cx. Mumbai 2024(6) TMI 682***.

8.The facts on record reveal that the petitioner had filed a writ petition before this Court in W.P.No.22065 of 2008, challenging the validity of Explanation to Section 65(105) of the Finance Act, 1994 as introduced by the Finance Act, 2005 and also to declare the provisions of Rule 2(1)(d)(iv) of the Service Tax Rules, 1994 as introduced by **Notification 23/2005 ST** dated **07.06.2005**, as being violative of the Finance Act, 1994 and the rights enshrined under Articles 14, 19(1)(g), 245 and 265 of the Constitution of India.

9.The Hon'ble Division Bench *vide* common order dated 19.08.2014 disposed the said writ petition *viz*., W.P.No.22065 of 2008 along with other writ petitions on similar issue as under:-

> *"These petitions raise a common question of applicability of service 3 tax on alleged taxable services provided by a non-resident or a person located outside India, to a recipient in India.*
>
> *2.The learned counsel for the parties state that the Special Leave Petition filed against the judgment of the Bombay High Court in Indian National Shipowners Association v. Union of India [2009 (13) STR 235],*

having been dismissed by the Hon'ble Supreme Court, service tax liability on any taxable service provided by a non-resident or a person located outside to a recipient in India, would arise with effect from 18.4.2006, i.e. after enactment of Section 66A of Finance Act, 1994.

3.As far as the period post 18.4.2006 is concerned, the views of the Delhi and Allahabad High Courts in (2007) 7 VST 43 (Orient Crafts Ltd. v. Union of India) and (2012) 25 STR 209 (Glyph International Ltd. v. Union of India) respectively favour the department. However, the Hon'ble Supreme Court has granted leave to appeal and the matters are yet to be listed for final disposal.

4.In the aforesaid facts and circumstances, we hold that the parties would be bound by the judgment to be rendered by the Hon'ble Supreme Court. However, in case some aspects raised in these petitions are not addressed by the Hon'ble Supreme Court, the parties are at liberty to revive these petitions.

5.These writ petitions are closed in terms aforesaid. The interim orders would enure to the benefit of the parties till a decision is rendered by the Hon'ble Supreme Court. The parties will individually reply to the show cause notices sent to them, so that the proceedings are kept alive. No costs. Consequently, connected miscellaneous petitions are closed."

10.Thus, the challenge to the impugned proceedings on the ground that intimation was not given earlier to the petitioner and was made only on 21.02.2023 for the first time, cannot be countenanced, as the issue is still pending before the Hon’ble Supreme Court. The common order dated 19.08.2014 of the Division Bench itself has made it clear that the interim orders would enure to the benefit of the parties, till a decision is rendered by the Hon’ble Supreme Court.

11.Therefore, challenge to the impugned order on the strength of the decision of the Division Bench of the Bombay High Court in ***Bhushan Vora,*** *referred to supra,* following the decision of the Bombay High Court in ***ICICI Home Finance*** *referred to supra,* cannot be countenanced.

12.Therefore, the writ petition is liable to be dismissed. However, liberty is granted to the petitioner to avail the appeal remedy before the Appellate Authority within a period of 30 days from the date of receipt of a copy of this order.

13.In case, the petitioner files such an appeal within such time, the Appellate Authority shall consider and dispose of the same on merits and in accordance with law on its own turn without further reference to limitation.

14.This Writ Petition is dismissed with the above liberty. No costs. Connected W.M.Ps are closed.

13-03-2026

Index: Yes/No
Neutral Citation: Yes/No
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To

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C.SARAVANAN, J.

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