BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.06.2026

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.(MD)Nos.3360 and 22328 of 2025
and
W.M.P.(MD)Nos.2357, 2358, 17439 and 17440 of 2025

K.Janakiraman ... Petitioner in both the W.Ps.

-vs-

1.The Assistant Commissioner of GST and Central Excise,
Tiruchirapalli I Division,
No. 1 Williams Road, Cantonment,
Trichy – 620 001.

2.The Commissioner of GST and Central Excise (Appeals),
Coimbatore at Trichirapalli,
No.1 Williams Road, Cantonment,
Tiruchirapalli – 620 001.

3.The Branch Manager,
Indian Overseas Bank,
Cantonment Branch,
Tiruchirapalli – 620 018. ... Respondents in both the W.Ps.

Prayer in W.P.(MD)No.3360 of 2025: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the first respondent vide Order-in-Original No.16/2024-R, dated 11.12.2024 and quash the same as arbitrary and further direct the first respondent to refund the recovery of the excess payment from the petitioner's Account No.009301000010435 maintained by the third respondent.

Prayer in W.P.(MD)No.22328 of 2025: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records impugned order passed by the second respondent in Order - in- Appeal No.46/2025-TRY-ST-APP, dated 31.03.2025 and quash the same as arbitrary and further direct the second respondent to give one more opportunity to the petitioner to rehear the Appeal and pass an order on merits in accordance with law.

For Petitioner in both the W.Ps. : Mr.S.Krishna Kumar

For R1 and R2 in both the W.Ps. : Mr.R.Gowri Shankar
Senior Standing Counsel

For R3 in both the W.Ps. : No Appearance

COMMON ORDER

These two writ petitions are interconnected and are, therefore, taken up together and disposed of by this common order.

2. In W.P.(MD)No.22328 of 2025, the petitioner challenges the Order-in-Appeal dated 31.03.2025, whereby the appeal preferred against the Order-in-Original dated 24.08.2022 came to be rejected on the ground that it was barred by limitation.

3. W.P.(MD)No.3360 of 2025 has been filed seeking refund of the tax, penalty and interest recovered and realised from the petitioner pursuant to the said assessment order.

4. The case of the petitioner is that a show cause notice was issued on 24.04.2021 during the period of the COVID-19 pandemic. The petitioner, who is presently aged about 81 years, was, even at the relevant point of time, suffering from cancer and other age-related ailments. Owing to the said circumstances, the petitioner could not effectively respond to the show cause notice and consequently, the Order-in-Original came to be passed *ex parte*.

5. According to the petitioner, he was not aware of the said order and came to know about the same only when recovery proceedings were initiated. Thereafter, he approached the authorities, obtained a copy of the Order-in-Original and immediately preferred an appeal. It is the contention of the petitioner that the Appellate Authority ought to have taken note of the fact that the period of limitation would commence only from the date on which knowledge of the order was acquired and, without examining the said aspect, mechanically rejected the appeal as being time-barred.

6. The learned counsel for the petitioner would further submit that once the very basis of the demand is under challenge, the amount recovered pursuant to the impugned order is liable to be refunded.

7. Per contra, the learned counsel appearing for the Revenue, relying upon the counter affidavits filed in both the writ petitions, would submit that the show cause notice had been duly served upon the petitioner. Despite the same, no reply was submitted and the petitioner failed to avail the opportunities of personal hearing that had been afforded. According to the Revenue, the burden lies upon the petitioner to substantiate his claim, particularly, when the turnover had been determined and the short-paid service tax quantified by the impugned order. It is contended that the petitioner allowed the order to attain finality and approached the appellate forum only after recovery proceedings were initiated. Therefore, the Appellate Authority was justified in rejecting the appeal as barred by limitation. Once the assessment order had attained finality, the question of refund of the amount recovered would not arise.

8.I have considered the rival submissions made on either side and perused the materials available on record.

9. Admittedly, the Order-in-Original has been passed *ex parte*. While considering the matter, this Court cannot lose sight of the fact that the show cause notice was issued during the period of the COVID-19 pandemic. This Court has also taken into account the advanced age of the petitioner and the fact that he was suffering from cancer and other ailments during the relevant period. Though the failure to respond to the notice is attributable to the petitioner, having regard to the peculiar facts and circumstances of the case, I am of the view that one more opportunity deserves to be granted, particularly when the entire tax and penalty amounts have already been recovered from the petitioner.

10. At the same time, the petitioner cannot, at this stage, seek a direction for refund of the amounts already recovered. The entitlement of the petitioner to any refund or reimbursement would necessarily depend upon the outcome of the fresh adjudication.

11. In view of the above, these writ petitions are disposed of on the following terms:

(i) The Order-in-Original dated 24.08.2022 and the Order-in-Appeal dated 31.03.2025 shall stand set aside. The matter is remanded to the file of the first respondent for fresh consideration.

(ii) The petitioner shall submit his reply to the show cause notice, together with all supporting documents, within a period of three (3) weeks from the date of receipt of web copy of this order.

(iii) Upon receipt of such reply, the first respondent shall afford the petitioner an opportunity of personal hearing and thereafter, proceed to adjudicate the matter afresh on its own merits and in accordance with law.

(iv) Depending upon the outcome of such adjudication, the question of refund, adjustment or reimbursement of the amounts already recovered from the petitioner shall be considered and decided by the competent authority in accordance with law.

There shall be no order as to costs. Consequently, connected Miscellaneous Petitions shall stand closed.

NCC : No **08.06.2026**

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To:-

1.The Assistant Commissioner of GST and Central Excise,
Tiruchirapalli I Division,
No. 1 Williams Road, Cantonment,
Trichy – 620 001.

2.The Commissioner of GST and Central Excise (Appeals),
Coimbatore at Trichirapalli,
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3.The Branch Manager,
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Cantonment Branch,
Tiruchirapalli – 620 018.

D.BHARATHA CHAKRAVARTHY, J.

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Common order in
W.P.(MD)Nos.3360 and 22328 of 2025

08.06.2026