

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

**WEDNESDAY, THE EIGHTEENTH DAY OF FEBRUARY
TWO THOUSAND AND TWENTY SIX**

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE APARESH KUMAR SINGH
AND
THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN**

WRIT PETITION NO: 4806 OF 2026

Between:

M/s.Cargomen Logistics India Private Limited, Represented by Mr. Harihar Nath having its Registered Office at H.No.1-10-98/33, My Project Kamdhenu, Dwaraka Das Colony, Begumpet, Hyderabad, Telangana- 500 016.

...PETITIONER

AND

1. The Additional Commissioner of Central Tax, Secunderabad GST Commissionerate GST Bhavan, L.B. Stadium Road Basheerbagh, Hyderabad -500 004
2. The Additional Commissioner, Audit-II Commissionerate D.No.1-98/B/20, 21, Sanvi Yamuna Pride, Krithika Layout, Madhapur, Hitech City, Hyderabad, Telangana -500 081
3. The Principal Commissioner of Central Tax, Secunderabad GST Commissionerate GST Bhavan, L.B. Stadium Road Hyderabad, Telangana - 500 004
4. State of Telangana, Represented by Principal Secretary, Revenue Department (State Tax) Secretariat, Hyderabad - 500 004
5. Union of India, Ministry of Finance, Represented by its Secretary, North Block, New Delhi -110 001

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a Writ, Order or direction particularly one in the nature of a WRIT OF CERTIORARI or any other appropriate writ (i) setting aside/quashing the Order-in-Original No. 25/2025-26-Sec-Adjn-ADC(GST), dated 20.11.2025 passed by the Respondent No. 1 under Section 74 of the CGST Act read with Section 20 of the IGST Act, for the F.Y. 2018-19 to 2023-24, to the extent of

confirming a demand of Rs. 7,02,03,972/- along with interest and a penalty of Rs.7,02,03,972/-, as without jurisdiction, erroneous, arbitrary, illegal, passed in violation of principles of natural justice mandatory procedure prescribed under law and provisions of the CGST Act and CGST Rules, and in abuse of process of law, (ii) set aside the summary of the order issued in FORM GST DRC-07 dated 24.11.2025 bearing Reference No. ZD3611250762911 for the period April 2018 to March 2024, (iii) declaring that Petitioner is not liable to pay any amount, interest or penalty in the interest of justice and equity, and in accordance with the scheme of the GST Acts.

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to stay recovery of the tax, interest, penalties pursuant to (a) the impugned Order-in-Original No. 25/2025-26-Sec-Adjn ADC(GST), dated 20.11.2025 to the extent of confirming a demand of Rs. 7,02,03,972/- along with interest and a penalty of Rs. 7,02,03,972/- and (b) FORM GST DRC-07 dated 24.11.2025, passed by the 1st Respondent.

Counsel for the Petitioner: SRI J. NAGARAJAN (Representing SRI Karan Talwar)

**Counsel for the Respondent Nos.1 to 3: SRI DOMINIC FERNANDES
(senior standing counsel for CBIC)**

Counsel for the Respondent No.4: GP FOR STAMPS AND REGISTRATION

Counsel for the Respondent No.5: SC FOR CENTRAL GOVERNMENT

The Court made the following: ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN

WRIT PETITION No.4806 of 2026

Dated: 18.02.2026

Between:

M/s. Cargomen Logistics India Private Limited.

...Petitioner

and

The Additional Commissioner of Central Tax,
Secunderabad GST Commissionerate,
GST Bhavan, L.B.Stadium Road,
Basheerbagh, Hyderabad – 500 004,
and 4 others.

...Respondents

ORDER:

Learned counsel Sri Karan Talwar, representing learned counsel
Sri J.Nagarajan, appears for the petitioner.

Sri Dominic Fernandes, learned Senior Standing Counsel for
Central Board of Indirect Taxes and Customs, appears for respondents
No.1 to 3.

2. The writ petition has been filed with the following prayer:

“For the reasons stated above, it is prayed that this Hon’ble Court may be pleased to issue a Writ, Order or direction particularly one in the nature of a WRIT OF CERTIORARI or any other appropriate writ (i) setting aside/quashing the Order-in-Original No.25/2025-26-SecAdjn-ADC(GST) dated 20.11.2025 passed by the Respondent No.1 under Section 74 of the CGST Act read with Section 20 of the IGST Act, for the F.Y.2018-19 to 2023-24 to the extent of confirming a demand of Rs.7,02,03,972/- along with interest and a penalty of Rs.7,02,03,972/- as without jurisdiction, erroneous, arbitrary, illegal, passed in violation of principles of natural justice mandatory procedure prescribed under law and provisions of the CGST Act and CGST Rules, and in abuse of process of law, (ii) set aside the summary of the order issued in FORM GST DRC-07 dated 24.11.2025 bearing Reference No.ZD3611250762911 for the period April 2018 to March 2024, (iii) declaring that Petitioner is not liable to pay any amount, interest or penalty; in the interest of justice and equity and in accordance with the scheme of the GST Acts and pass such other order or orders as the Hon’ble High Court may deem fit and proper in the circumstances of the case and pass such other order or orders as the Hon’ble High Court may deem fit and proper in the circumstances of the case.”

3. The impugned demand has been assailed, *inter alia*, on a number of grounds, both touching the merits of the imposition of liability and also violation of principles of natural justice.

4. The petitioner claims to provide services by way of transportation of goods by aircraft which are exempted from Goods and Services Tax (GST) vide Sl.No.19/19A and 19B of Notification No.12/2017-Central Tax (Rate) dated 28.06.2017. The petitioner contends that for the relevant years 2017-2018 to 2021-2022, it received final audit reports on 29.03.2022 and 05.01.2024 with no objection to claim of exemption of

entries. However, later in January 2025, a notice for conducting audit dated 02.01.2025 was issued in Form GST ADT-01 by the Assistant Commissioner (Audit) proposing to conduct the audit at the place of the business of the petitioner directing the petitioner to produce books of accounts and records for the financial years 2022-2023 to 2023-2024. A spot memo dated 07.03.2025 was issued stating the discrepancies observed during the GST audit. An intimation in DRC-01A was issued on 20.06.2025 alleging short payment of GST on account of wrong classification of services and asking the petitioner to pay an amount of Rs.9,28,08,432/- along with interest and penalty or to submit its submissions against the ascertainment of demand. The petitioner replied thereto stating that there is no misclassification of services. The applicable GST has been correctly discharged under Reverse Charge Mechanism at 5%/18% as per the applicable provisions. Therefore, the proposed demand is liable to be dropped. However, the show cause notice was issued on 27.06.2025 proposing, *inter alia*, the demand of Rs.9,28,08,432/- along with interest and penalty alleging tax not paid/short paid with respect to the buying and selling of cargo space on principal to principal basis and services ancillary thereto under Section 74 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as, "the Act"). The final audit report for the period April

2022 to March 2024 was issued on 16.07.2025 by the Assistant Commissioner, Circle-IV, Hyderabad Audit-II Commissionerate, providing an outline of the alleged important and material non-compliance issues identified during the audit. The petitioner submitted its reply, *inter alia*, taking the pleas that a) Section 74 of the Act is not invokable, b) there is no misclassification of services, c) the applicable GST at the rate of 5%/18% has been correctly discharged by the petitioner under Reverse Charge Mechanism in accordance with the applicable provisions of law and d) the proposed demand of differential tax is not sustainable in law and deserves to be dropped in full. The petitioner also attended the personal hearing conducted on 07.10.2025 and reiterated its submission. It also filed written statements wherein it was submitted that it acts as a service provider on a principal to principal basis. It placed reliance on Circular No.197/7/2016-Service Tax dated 12.08.2016 issued under the service tax regime and also submitted additional documents. The petitioner also filed written submissions on 10.10.2025 with certain additional documents. However, respondent No.1 -- proper officer, has passed the impugned order-in-original dated 20.11.2025 setting aside the demand of Rs.2,26,04,460/- while confirming the demand of Rs.7,02,03,972/- as tax not paid/short paid with reference to the activity of buying and selling of cargo space on

principal to principal basis and services ancillary on account of misclassifying the 'support services in Transport HSN 9967' as 'services by way of transportation of goods by an air craft or by a vessel under HSN 9967' along with applicable interest and penalty of Rs.7,02,03,972/- under Section 74(9) of the Act. The petitioner has assailed it as being in violation of principles of natural justice, contrary to facts, law, evidence and catena of judicial decisions.

5. Learned counsel for the petitioner, during the course of his submissions, tried to show that the issue before this court is on the application of the correct entry under the GST regime on the basis of documents submitted by the petitioner before the proper officer which are not in dispute. It is submitted that if the final audit reports did not find any discrepancy for the years 2017-2018 to 2021-2022, the petitioner cannot be alleged to have fraudulently not paid tax at the prescribed rate to invoke the onerous conditions of Section 74 of the Act. It is further submitted that the written submissions and additional documents submitted by the petitioner have not at all been taken into consideration while passing the order-in-original. Therefore, this court may feel inclined to interfere in the impugned order and remand the matter for proper adjudication.

6. Learned Senior Standing Counsel appearing for respondents No.1 to 3 has strongly opposed the prayer. He has also drawn the attention of the court to the findings rendered by the proper officer on each of the pleas raised by the petitioner as to the question of classification or misclassification of the services under the proper entry of the GST notification. He further submits that the reply submitted by the petitioner against the charges raised in the show cause notice has been elaborately discussed and analysed by the proper officer. In fact, the proper officer has accepted the contention of the petitioner so far as the demand of Rs.2,26,04,460/- is concerned and dropped it. However, after detailed analysis and taking into note that the petitioner provides a bouquet of services which are not only confined to transportation on principal to principal basis, but principal to consumer basis also, the proper officer has rightly held that the petitioner had indulged in misclassification of services to evade tax fraudulently. It is submitted that the plea of non-consideration of the petitioner's reply or violation of principles of natural justice is not made out, as the petitioner has also been accorded opportunity of hearing and all his defences have been duly taken into consideration and discussed to come to a considered finding. He submits that the petitioner has an efficacious remedy of

appeal where it can take all such grounds of law and fact as may be available to it to question the impugned demand.

7. We have heard learned counsel for the parties. We have taken note of all the submissions urged and also gone through the findings of the proper officer.

8. A perusal of the discussion and findings starting from paragraph 9 of the impugned order-in-original up to paragraph 17.3.2 shows that the petitioner has not only been granted adequate opportunity, but also all its contentions have been duly dealt with by the proper officer while confirming the demand of Rs.7,02,03,972/- and at the same time dropping the demand of Rs.2,26,04,460/-. It appears that the proper officer has at paragraph 11.3.2 held that the demand to the extent of Rs.36,44,812/- does not survive and is liable to be set aside. The proper officer has, on the other hand, after verification of the reply and annexures submitted by the taxpayer, at paragraph 13.2 held that the taxpayer provides a bouquet of services to their clients/customers which can be seen from the invoices issued by the taxpayer. From the business model described by the taxpayer and the sample sale invoices as discussed therein, it was observed that the taxpayer has provided support services by way of transporting goods to their customers through Air

Freight/Ocean Freight. Further, the taxpayer has discharged GST @ 5% in respect of 'Ocean Freight Inward' by claiming the concessional rate of tax under Sl.No.9(ii) of the Notifications No.08/2017-IGST (Rate) dated 28.06.2017 and at Nil rate of tax for 'Ocean Freight Outward' and 'Air Freight' by claiming the concessional rate of tax under Sl.Nos.20, 20A and 20B of Notification No.09/2017 – IGST(Rate) dated 28.06.2017. At paragraph 15.3.4 of the impugned order-in-original, the proper officer has held that the value of duty credit scrip amounting to Rs.10,47,41,194/- is required to be reduced from the value taken in the show cause notice and the demand to the extent of Rs.1.88.53.415/- i.e., at the rate of 18%, does not survive and is liable to be set aside. Further discussion on the issue of classification of services, the claim of eligibility for exemption and valuation of service by the proper officer shows that each of the grounds had been dealt with before coming to the conclusion. Therefore, the contention of the petitioner that the reply submitted by it along with additional documents and written submissions have not been considered resulting in violation of principles of natural justice is not worth acceptance. The impugned order-in-original has levied demand on the charges relating to misclassification of services by the petitioner and on the plea of exemption by a detailed analysis of the invoices and other materials placed by the

petitioner/taxpayer. If the petitioner is aggrieved by the determination, the proper remedy for it is to approach the appellate forum where all such grounds of law and fact as available to it can be taken. The appellate authority has the power to make further enquiries to determine the correctness and legality of the impugned demand.

9. Therefore, on consideration of all these facts and circumstances, and for the reasons recorded hereinabove, this court is not inclined to entertain the writ petition on the ground of efficacious alternative remedy. The petitioner has failed to make out a case of interference under Article 226 of the Constitution of India on the settled principles. Therefore, the writ petition is dismissed. However, the petitioner is at liberty to approach the appellate authority with the statutory deposit taking all such grounds of law and fact as are available to it. Let it be made clear that none of the observations made hereinabove shall prejudice the case of the parties. There shall be no order as to costs.

10. Learned counsel for the petitioner submits that the petitioner may be allowed two weeks time to prefer the appeal with statutory deposit. The petitioner is at liberty to do so within the period of two weeks.

Miscellaneous applications pending, if any, shall stand closed.

SD/- P.C.SULEKHA DEVI
ASSISTANT REGISTRAR

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SECTION OFFICER

To,

1. One CC to Sri Karan Talwar, Advocate [OPUC]
2. One CC to Sri Dominic Fernandes (senior standing counsel for CBIC) [OPUC]
3. Two CCs to the GP for Revenue, High Court for the State of Telangana, at Hyderabad[OUT]
4. One CC to SC for Central Government[OPUC]
5. Two CD Copies

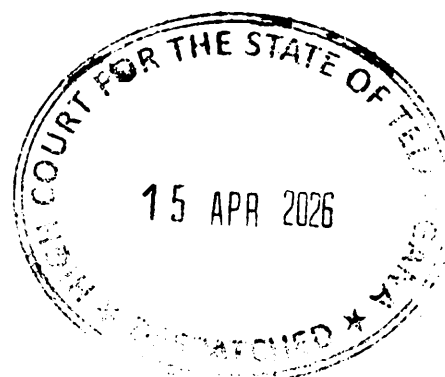
T J
TKS

HIGH COURT

DATED:18/02/2026

ORDER

WP.No.4806 of 2026



DISMISSING THE WRIT PETITION

WITHOUT COSTS

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