6-WPL-7153-2026.doc

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (LODGING) NO. 7153 OF 2026

M/s Above Ground Level Travco LLP
Ground Floor, 3, Plot No.6,
Sindh Chambers, Shahid Bhagat Singh Road,
Mumbai, Maharashtra – 400 005.
GSTIN : 27ABNFA3722H1ZG
PAN : ABNFA3722H ...Petitioner

Versus

1. The Union of India
Through the Secretary,
Department of Revenue,
Ministry of Finance,
North Block, New Delhi – 110 001.

2. The State of Maharashtra
Through the Commissioner of State Tax,
8th Floor, Vikrikar Bhavan,
Mazgaon, Mumbai – 400 010.

3. The Deputy Commissioner of State Tax
Appellate Authority – Appeal – I,
Fort, South Mumbai.

4. The State Tax Officer
Kalbadevi Nodal Division – 1
A-4, 9th Floor, GST Bhavan, Old Building,
Mazgaon, Mumbai.

5. Bank of Baroda,
Fort University Branch,

RUPALI RAJESH WAKODIKAR
Digitally signed by RUPALI RAJESH WAKODIKAR
Date: 2026.11.05 [illegible]6 +0530

Uploaded on - 05/11/2026 Downloaded on - 14/11/2026 09:45:15

119, Agra Building M.G.Road,

Fort, Mumbai – 400 023. ...Respondents

.....

Mr. Nigel Quraishy a/w Mr. Snehil Rai for the Petitioner.

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

Ms. Priyanka Singh a/w Ms. Niyati Mankad & Mr. Y.R.Mishra for the Respondent No.1.

.....

CORAM : M. S. KARNIK &
SANDESH D. PATIL JJ.
DATE : 2nd NOVEMBER, 2026

JUDGMENT (PER SANDESH D. PATIL, J.)

1. **Rule**. Rule is made returnable forthwith and with the consent of the parties, the matter is taken up for final hearing.

2. By the present Writ Petition, the Petitioner is challenging the legality and validity of the Notice No. STO/C-858/KALBADEVI-712/ND-01/GST RECOVERY/DRC-13/B-39, Mumbai dated 11.02.2026 passed by the respondent No.4 under Section 79(1)(c) of the GST Act, 2017 being 'Exhibit-A' directing the Respondent No.5 to

Uploaded on - 05/11/2026 Downloaded on - 14/11/2026 09:45:15

pay an amount of Rs.16,25,258/- to the Government on behalf of the Petitioner and also the impugned Order-In-Appeal No.DCST/GST - Appeal/E-101/ARN-AD2702250219172/2025-26/B-154 dated 29.12.2025 passed by the Respondent No. 3 being 'Exhibit-B'.

3. The facts and circumstances are as under:

In March 2019, the Petitioner received an invoice from M/s. Jet Set Go Aviation Services Ltd. for Rs.53,17,814/- with IGST of Rs.8,11,912/-. The accountant of the Petitioner has incorrectly and inadvertently recorded ITC in GSTR- 3B for March 2019 under CGST and SGST (Rs.4,05,596/-each) instead of IGST. In September 2019, the Petitioner rectified the error, by correctly showing ITC under IGST in GSTR-3B for September, 2019.

On 27.05.2024, a Show Cause Notice was issued by Respondent No.4 but only on the portal and not by any other effective communication. On 29.07.2024, an ex-parte Order-in-Original passed by the Respondent No.4 has been issued against the petitioner and uploaded on portal and was not served effectively.

Uploaded on - 05/11/2026 Downloaded on - 14/11/2026 09:45:15

The Petitioner came to know about this order in or around the month of February-March, 2025 when the Nodal Officer contacted the Petitioner on mobile and informed the petitioner regarding the Amnesty Scheme introduced by the Government and also during that time informed that about issuance of Show Cause Notice and Order-in-Original against the Petitioner.

The Petitioner on 07.02.2025 filed an appeal before the State Commissioner of (Appeals). On 29.12.2025, the said appeal was rejected on ground of limitation. On 11.02.2026, the Respondent No.4 issued a notice under Section 79(1)(c) of the GST Act, 2017 to the Petitioner's bank for recovery of Rs. 16,25,258/-. This notice was issued without informing the Petitioner. Hence, the present Petition is filed challenging the Show Cause Notice dated 27.05.2024, Order-in-Original dated 29.07.2024, Order-in-Appeal dated 29.12.2025, and Recovery Notice dated 11.02.2026.

Learned Counsel appearing for the Petitioner submitted

Uploaded on - 05/11/2026 Downloaded on - 14/11/2026 09:45:15

that the issuance of Show Cause Notice and passing of Order-in-Original is in utter disregard to the principles of natural justice, *inasmuch as,* the Respondents never informed the Petitioner about the proceedings. Hence, no opportunity was given to the Petitioner. It is submitted that the impugned Show Cause Notice, and Order-in-Original were uploaded on the web portal, which does not amount to effective communication. The Petitioner came to know about the proceedings only when the Nodal officer - the Respondent No. 4 in the month of February-March 2025 informed by contacting on mobile number of the Petitioner that Show Cause Notice and Order-in-Original has been passed against him and since Amnesty Scheme is going on requested to pay.

It is argued by the Petitioner that the orders are totally illegal, and further the act of the Respondent No. 4 to direct the Banker of the Petitioner to pay an amount of Rs.16,25,258/- is arbitrary without notice to the Petitioner and in violation of principles of natural justice. The Petitioner

Uploaded on - 05/11/2026 Downloaded on - 14/11/2026 09:45:15

contended that the matter is covered by the judgment of this Court in the matter of ***T.S. Lines India Pvt. Ltd. vs. State of Maharashtra***[1]. He submitted that there was no loss of revenue to the State and that there was a bonafide mistake.

The learned Counsel appearing for the Petitioner sought allowing the said Petition.

The learned Counsel appearing for the Revenue submitted that the impugned orders are proper and require no interference.

4. We have heard the learned Counsel appearing for the parties. We have perused the documents on record.

5. The contention of the Petitioner is that there was no proper service and that the only way of communication was that the notice was displayed/sent on the portal. It is clear from perusing of the impugned Show Cause Notice and the Order-in-Original that the Petitioner was not heard at the relevant time, and as such, the

1 2024 SCC OnLine Bom 6175

Uploaded on - 05/11/2026 Downloaded on - 14/11/2026 09:45:15

impugned Show Cause Notice, the Order-in-Original, and Order-in-Appeal are, thus, in gross defiance of principles of natural justice.

6. This Court in the matter of ***T.S. Lines India Pvt. Ltd. vs. State of Maharashtra & Ors.(supra)*** has observed in paragraph number 12 as under:

> *"12. We are therefore, of the view that no mistake can be attributed to the Petitioner for not having noticed the Notice or the Order on the portal. It is clear that all orders and notices were required to be placed in the "View Notices and Orders" window/portal. It is also appears to be quite clear from the perusal of the record that the Petitioner was not heard. It had no opportunity to reply to the show cause notice."*

7. In fact, this Court in the matter of ***Abracadabra India and Ors. vs. Union of India and Ors.***[2] has also taken the same view.

8. Further, the Madras High Court in the matter of ***Axiom Gen Nxt India Private Limited vs. Commercial State Tax Officer, T. Nagar Assessment Circle, Chennai***[3] has drawn a distinction between sufficient and effective service under Section 169 of the GST Act, and

2 WP/2968/2024 dated 16/10/2026
3 2025 SCC OnLine Mad 3898

Uploaded on - 05/11/2026 Downloaded on - 14/11/2026 09:45:15

has held that when portal-based service is ineffective, the Department must adopt alternate statutory modes such as RPAD; failure to do so renders the proceedings unsustainable.

9. The Petitioner, upon realizing its glaring mistake that the accountant had incorrectly and inadvertently recorded ITC in GSTR-3B for the month of March 2019 under CGST and SGST instead of IGST, had rectified the error by correctly showing ITC under IGST in GSTR-3B for September 2019. The said document is at 'Exhibit-F' to the Petition.

10. This Court in the matter of ***Star Engineers (I) Pvt. Ltd. vs. Union of India & Ors.***[4] has even allowed time-barred correction in the GSTR-1 as the same was bonafide and there was no loss to the revenue.

11. For the reasons mentioned above, we are inclined to allow the Petition. Hence, the following order:

4 2023 SCC OnLine Bom 2682

Uploaded on - 05/11/2026 Downloaded on - 14/11/2026 09:45:15

ORDER

(i) The Petition is allowed.

(ii) The impugned Recovery of Tax Notice bearing No. STO/C-858/KALBADEVI-712/ND-01/GST RECOVERY/ DRC-13/B-39 Mumbai dated 11.02.2026 at 'Exhibit-A' is quashed and set aside.

(iii) The Show Cause Notice dated 27.05.2024 issued by the Respondent No.4 is quashed and set aside.

(iv) The impugned Order-In-Appeal No. DCST/GST Appeal/E-101/ARNAD2702250219172/2025-26/B-154 dated 29.12.2025 passed by the Respondent No. 3 being 'Exhibit-B', the impugned Order-in-Original No. STO/C-858/KAL-712/Returns of Scrutiny/20-21/DRC-07/2023-24/B-199 dated 29.07.2024 passed by the Respondent No. 4 are quashed and set aside.

12. Rule is made absolute in aforesaid terms and the petition stands disposed of accordingly.

(SANDESH D. PATIL, J.) (M. S. KARNIK, J.)

Uploaded on - 05/11/2026 Downloaded on - 14/11/2026 09:45:15