IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2026

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THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

**W.P.No.11452 of 2026**
**and**
**W.M.P.Nos.12480 and 12483 of 2026**

M/s.Teikin Automative India Pvt. Ltd.,
VLB Janaki Ammal Arcade
No.20, Woods Road, Chennai-600 002.
Rep. By its Director Mr.C.N.Rafi ... Petitioner

vs.

The Joint Commissioner of Customs (Gr.5B)
Chennai II Import Commissionerate
No.60, Rajaji Salai, Custom House
Chennai-600 001. … Respondent

Writ Petition filed under Article 226 of the Constitution of India praying a writ of Certiorari, to call for the records pertaining to the impugned order in Original No.117895/2026 dated 02.03.2026 in F.No.CUS/APR/MISC/5091/2023-GR/5B passed by the respondent herein and to quash the same insofar as the impugned order had been passed, without jurisdiction and authority of law and also against the provisions of the Customs Act and also against the various judicial pronouncements rendered in this regard and also in clear violation to the principles of natural justice and against the constitutional mandate.

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| For Petitioner | : | Mr.S.Baskaran |
| For Respondent | : | Mr.S.M.Deenadayalan<br>Senior Standing Counsel |

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## ORDER

The petitioner has challenged the order dated 02.03.2026 passed by the respondent under Section 28(4) of the Customs Act, 1962 ("the Act"), whereby the respondent confirmed the demand of differential duty of ₹8,49,253/-, together with interest under Section 28AA of the Act, aggregating to ₹9,70,749/-, and also imposed a redemption fine of ₹5,00,000/- in lieu of confiscation of the goods.

2. The petitioner had imported parts and accessories of motor vehicles under Bill of Entry No.7952803 dated 19.06.2020. At the time of import, the petitioner claimed the benefit of Serial No.452L of Schedule III to Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 and paid IGST at the rate of 18%. According to the Department, the imported goods were correctly classifiable under Serial No.170 of Schedule IV to the said Notification as "parts and accessories of motor vehicles of headings 8701 to 8705", attracting IGST at the rate of 28%.

3. Based on audit objections, the Department issued a demand dated 05.01.2022 calling upon the petitioner to pay the differential duty of ₹8,44,002/- together with applicable interest. Pursuant to the said demand, the petitioner paid the entire differential duty along with interest, amounting to ₹9,70,749/-, on 25.01.2022.

4. Thereafter, the respondent issued a show cause notice dated 11.03.2025 under Section 28(4) of the Act alleging that the petitioner had wrongly availed the benefit of the lower rate of IGST by suppressing material facts. The petitioner submitted a reply to the show cause notice. After considering the reply and hearing the petitioner, the respondent passed the impugned order dated 02.03.2026.

5. Learned counsel for the petitioner made the following submissions:

(i) The petitioner had already paid the entire differential duty together with interest pursuant to the audit objections. Therefore, no further proceedings under Section 28 of the Act could have been initiated.

(ii) The show cause notice dated 11.03.2025 was issued more than three years after the petitioner had paid the differential duty and interest. Hence, the proceedings are barred by limitation under Section 28(1) of the Act.

(iii) The show cause notice does not contain any specific allegation of wilful misstatement or suppression of material facts. Therefore, the extended period of limitation under Section 28(4) of the Act could not have been invoked.

6. Learned Senior Standing Counsel appearing for the respondent submitted that the petitioner had wrongly claimed the benefit of the lower rate of IGST by suppressing material facts and making misrepresentations. Therefore, the proceedings were rightly initiated under Section 28(4) of the Act within the extended period of five years. It was further submitted that the dispute involves questions of fact relating to classification of goods and, therefore, the petitioner ought to avail the statutory remedy of appeal under Section 128 of the Act instead of invoking the writ jurisdiction of this Court.

7. I have considered the rival submissions and perused the materials placed on record.

8. It is not in dispute that the petitioner imported the goods on 19.06.2020 by paying IGST at the rate of 18%. Pursuant to the audit objections, the Department issued a demand dated 05.01.2022. The petitioner, without contest, paid the entire differential duty together with interest amounting to ₹9,70,749/- on 25.01.2022. The audit objections were thereafter treated as closed on 27.01.2022. Despite this, the respondent issued the impugned show cause notice on 11.03.2025.

9. Section 28(1) of the Act applies where duty has not been levied, short-levied, or short-paid for reasons other than collusion, wilful misstatement, or suppression of facts. In such cases, the proper officer is required to issue a show cause notice within the prescribed period from the relevant date.

10. Section 28(4) applies only where the short levy or short payment is by reason of collusion, wilful misstatement, or suppression of facts. In such cases, the Department is entitled to invoke the extended period of limitation.

11. In the present case, the relevant date is 27.01.2022, when the audit objections were treated as closed after the petitioner paid the entire differential duty together with interest. Even assuming Section 28(1) applies, the show cause notice ought to have been issued within the prescribed period. However, it was issued only on 11.03.2025, more than three years later. Therefore, the proceedings are clearly barred by limitation under Section 28(1) of the Act.

12. Section 28(2) of the Act further provides that where a person pays the duty together with applicable interest under Section 28(1) and informs the proper officer of such payment, no show cause notice shall thereafter be issued in respect of the duty, interest, or any penalty relating thereto.

13. In the present case, the petitioner paid the entire differential duty together with interest, and the Department accepted the payment. Consequently, the proper officer had no authority to issue the subsequent show cause notice or proceed further under Section 28 of the Act.

14. Though the respondent seeks to justify the proceedings under Section 28(4), a reading of the show cause notice shows that it does not contain any specific allegation of wilful misstatement, collusion, or

suppression of material facts. The notice merely states that the petitioner had wrongly availed the benefit of IGST at the lower rate. In the absence of the essential ingredients required under Section 28(4), the extended period of limitation could not have been invoked.

15. The plea of suppression of facts has been raised for the first time in the counter affidavit filed before this Court. Such a plea cannot supplement or improve the contents of the show cause notice. Therefore, the respondent cannot rely upon Section 28(4) to contend that the proceedings are within limitation.

16. The respondent has also raised the objection that the petitioner has an effective alternative remedy of appeal under Section 128 of the Act. The existence of an alternative remedy, however, is not an absolute bar to the exercise of writ jurisdiction, particularly where the impugned proceedings are ex facie without jurisdiction or barred by limitation. Since the petitioner had already paid the differential duty together with interest and the subsequent proceedings were initiated without statutory authority, this Court is justified in exercising its jurisdiction under Article 226 of the Constitution.

17. Accordingly, the writ petition is allowed. The impugned order dated 02.03.2026 passed by the respondent is hereby set aside.

18. Consequently, the connected miscellaneous petitions are closed. There shall be no order as to costs.

**29.07.2026**

Speaking / Non-speaking order
Neutral Citation : Yes / No
Index : Yes / No
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*To*

The Joint Commissioner of Customs (Gr.5B)
Chennai II Import Commissionerate
No.60, Rajaji Salai, Custom House
Chennai-600 001.

**HEMANT CHANDANGOUDAR, J.,**

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**W.P.No.11452 of 2026**

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