



2026:AHC:34220

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 852 of 2026 (Leading)

M/S Anand And Anand (Law Firm)Petitioner(s)

Versus

The Principal Commissioner Central Goods &
Services Tax And 2 OthersRespondent(s)

Counsel for Petitioner(s) : Shubham Agrawal
Counsel for Respondent(s) : Amit Mahajan, Dhananjay Awasthi

:With:

WRIT TAX No. - 859 of 2026 (connected C1)

M/S Anand And Anand (Law Firm)Petitioner(s)

Versus

The Principal Commissioner Central Goods And
Services Tax And 2 OthersRespondent(s)

Counsel for Petitioner(s) : Shubham Agrawal
Counsel for Respondent(s) : Amit Mahajan, Dhananjay Awasthi

:and:

WRIT TAX No. - 861 of 2026 (connected C2)

M/S Anand And Anand (Law Firm)Petitioner(s)

Versus

The Principal Commissioner Central Goods &
Services Tax And 2 OthersRespondent(s)

Counsel for Petitioner(s) : Shubham Agrawal
Counsel for Respondent(s) : Amit Mahajan, Dhananjay Awasthi

:and:

WRIT TAX No. - 860 of 2026 (connected C3)

M/S Anand And AnandPetitioner(s)

Versus

The Principal Commissioner Central Goods And
Services Tax And 2 Others

.....Respondent(s)

Counsel for Petitioner(s) : Shubham Agrawal

Counsel for Respondent(s) : Amit Mahajan, Dhananjay Awasthi

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. The present matters have been placed before this Court post nomination by Hon'ble the Chief Justice on 16.02.2026.

2. Heard Dr. (Sri) J.K. Mittal, learned Senior Advocate assisted by Ms. Chhaya Gautam (AoR No.A/C 1950/2022) holding brief of Sri Shubham Agrawal, learned counsel for the writ petitioners in Leading, connected C1, connected C2 and connected C2 writ petitions and Ms. Archana Agarwal holding brief of Sri Amit Mahajan, who appears for the Revenue.

3. Since common questions are involved in the captioned writ petitions, thus they are being decided by a composite order.

4. A statement has been made by Ms. Archana Agrawal that she is well equipped with the instructions and is in a position to argue the matter, thus with the consent of the parties, the writ petitions are being decided at the fresh stage.

5. The writ petitioner happens to be a renowned Law Firm having registration under GST at Noida, who is engaged in profession of law, who catered to the demand of domestic and foreign clients. As per the writ petitioner, he received convertible foreign exchange for the legal services rendered to the foreign clients, on which the writ petitioners claims to be entitled and are availing the export benefit as conferred by both Ministry of Commerce through Foreign Trade Policy and Ministry of Finance. As per the writ petitioner in the leading writ petition, he filed a refund application under Section 54 of CGST Act 2017 online on Form GST RFD-01 for the period from March 2021 to August 2021 separately for each month for refund of Input Tax Credit (ITC) on the export of services without payment of tax. Following with the refund application, the petitioner filed the requisite documents/ details such as detail of input tax credit (ITC), details of remittance certificate, FIRC copies and refund of letter and undertaking

from March 2021 to August 2021. The writ petitioner received system generated separate e-mails about issue of RFD-08 regarding each month refund application filed for the period from March 2021 to August 2021, which the writ petitioner found uploaded on the GST portal separate unsigned and undated communication, in respect of application filed for the period from March 2021 to August 2021 treated as a show cause notice, but no RFD-08 was found to be upload and transmitted to the writ petitioner alleging that on checking the FIRC it was found that the FIRC has mentioned towards the legal services rendered in India and therefore, it was alleged that remittance is not in relation to export. The writ petitioner, thereafter, on 19.10.2023, preferred respective replies against the notices. Thereafter, the petitioner received system generated separate e-mails about issue of RFD-06 regarding passing of the orders for each month refund application filed for the period for March 2021 to August 2021. Separate orders in original (OIO) No.494 to 499 all of dated 31.10.2023 came to be passed rejecting the refund. The petitioner thereafter on 31.01.2024 filed separate appeals before the third respondent, Joint Commissioner, CGST (Appeals), Noida against each OIO no. 494 to 499 dated 31.10.2023 which were unsigned and undated refund rejection passed by the second respondent, Assistant Commissioner, CGST, Noida. The writ petitioner claims that his representative attended the hearing before the respondent no.3 on 25.06.2024 and however, on 30.04.2024, the respondent no.3, Joint Commissioner, CGST (Appeals), Noida proceeded to tender finding in favour of the petitioner regarding the condition for export of service fulfilled by the writ petitioner, yet remanded the matter to the Adjudicating Authority redetermining the place of supply of services to qualify as to whether the services of the writ petitioner as export of service after examining the document.

6. Questioning the order dated 30.04.2024, passed by the Appellate Authority, the Leading, connected C1, connected C2 and connected C3 petitions have been preferred relatable to different periods.

7. Learned counsel for the writ petitioner has sought to argue that the order passed by the Appellate Authority in so far it relates to remanding the matter back to the Original Authority cannot be sustained, particularly when, there is no power or provision of remand in that regard. In order to buttress the said submission, reliance has been placed upon the decision dated 04.09.2025 in Writ-Tax no.1263 of 2023, Anand & Anand (Law Firm) Vs.

Principal Commissioner of Central Goods and Services, wherein provisions contained under Section 107(11) of CGST Act, 2017 came to be considered wherein it was found that the remand was unsustainable and the Appellate Authority was to itself decide the appeals on merits in accordance with law.

8. Contention is that the said judgment has been passed in the case of the writ petitioner and the respondents themselves and thus it is inter se binding upon the respondents.

9. Countering the said submissions, so made by the writ petitioners, the learned counsel for the Revenue on the other hand submits that once the GST Tribunal is in operation, then it is always open for the writ petitioners to file an appeal before the said forum and the writ petitioner at the very first instance would not be maintainable.

10. However, on a pointed query being raised to the learned counsel for the respondents as to whether there is any provision for remand by the Appellate Authority, the answer is in negative.

11. I have heard the submissions so made across the Bar and perused the records carefully.

12. Apparently, the writ petitioners herein are questioning the appellate order dated 30.04.2024 passed by the Joint Commissioner, GST (Appeals) for various periods. Importantly, the appellate order dated 30.04.2024, deciding the appeals, notices and recites finding in favour of the writ petitioner regarding condition for export of services fulfilled by the writ petitioner. However, then too it remands the matter back to the adjudicating authority to redetermine the place of supply of services to qualify as whether the services of the petitioner and the export of services after examining the documents.

13. In the similar manner, this Court was confronted with the said situation, wherein though the findings were in favour of the assessee yet the matter was remitted back, this Court in *Anand & Anand (Law Firm) (supra)* has held as under:-

"[Order]. - Heard Sri Shubham Agrawal, learned counsel for petitioner and Sri Ranjit Kumar Verma, Advocate holding brief of Sri Parv Agarwal, learned counsel for respondents.

2. The limited issue before this Court is in terms of sub-clause (11) of Section 107 of Central Goods and Services Tax Act, 2017 whether Appellate Authority has power to

remit the matter back to Adjudicating Authority to decide the matter afresh?

3. Learned counsel for petitioner has vehemently referred aforesaid clause 107(11) of the Act, 2017 which is quoted below :-

"107. Appeals to Appellate Authority. -

1. ...

2.

3.

11. The Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order:

Provided that an order enhancing any fee or penalty or fine in lieu of confiscation or confiscating goods of greater value or reducing the amount of refund or input tax credit shall not be passed unless the appellant has been given a reasonable opportunity of showing cause against the proposed order:

Provided further that where the Appellate Authority is of the opinion that any tax has not been paid or short-paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, no order requiring the appellant to pay such tax or input tax credit shall be passed unless the appellant is given notice to show cause against the proposed order and the order is passed within the time limit specified under section 73 or section 74(1) [or section 74A]."

4. From plain reading of aforesaid Section as well as its Clause, there is a mandatory bar for the Appellate Authority that cases shall not be remitted back to Adjudicating Authority who has passed the said decision or order.

5. In the light of aforesaid provision, Court also takes note of paragraph 17 and 18 of impugned order dated 27.09.2023 which are quoted below :-

"17. However, I find that in the instant case the respondent party has not produced any conclusive evidence viz. any agreement etc., therefore in absence of any such evidence available on record, it be appropriate to remand the case back to the adjudicating authority to examine the place of provision of service in details with supporting documents. Needless to say that the procedure of natural justice must be followed before passing any order.

18. In view of the foregoing, all the 09 appeals as listed in para 1 of this order as has been filed by the Department are allowed by way of remand with the directions to the adjudicating authority to re-determine place of supply of service to qualify as the service of respondent as "export of Service as per the provisions of law after examination of the documents by calling from the respondent party."

6. While passing aforesaid direction, Joint Commissioner, CGST Appeals, NOIDA has not carefully perused the above referred sub-clause (11) of Section 107 of Act of 2017.

7. At this stage, Court also takes note that in earlier part of impugned order, probably

there are findings in favour of petitioner herein and observations made in paragraph 17 does not relate with earlier findings returned in impugned order.

8. Learned counsel for petitioner has also relied upon a judgment passed by Division Bench of this Court in Kronos Solutions India (P.) Ltd. v. UOI, 2024:AHC:16550-DB wherein similar issue was considered in following manner. For reference, relevant paragraphs of it are quoted below :-

"7. Undeniably, the appeal authority may either confirm or modify or annul the order under appeal. In face of statutory prescription allowing for only three above described options to the appeal authority, no inherent power may remain be exercised by the appeal authority to set aside the order under appeal and remand the proceedings to the original authority. Any doubt in that regard has been clarified by the legislature itself by stating that the appeal authority shall not refer the matter back to the adjudicating authority.

8. Accordingly, no other issue is required to be adjudicated at this stage. Once the appeal authority is seen to have failed to exercise its jurisdiction in accordance with law, such an order may never be sustained. It is accordingly set aside and the matter is remanded to the appeal authority to pass a fresh order after hearing the parties afresh."

9. Learned counsel for respondents has not able to make any submission contrary to contents of above referred Clause (11) of Section 107 as well as Kronos Solutions (supra).

10. In aforesaid circumstances, latter part of impugned order dated 27.09.2023 whereby matter has been remitted back to Adjudicating Authority is set aside and this writ petition is disposed of with an observation that Joint Commissioner, CGST Appeals, NOIDA shall decide the appeals filed in accordance with law.

11. The present writ petition is entertained against the order passed in Appeal directly since GST Tribunal which is still not functioning.

12. Writ petition stands disposed of with above observations and directions."

14. Since it has not been disputed by the learned counsel for the Revenue that the matter could not have been remitted back to the adjudicating authority, thus in the opinion of the Court, it would not be appropriate to relegate the writ petitioner to approach the appellate authority, i.e. GST Tribunal.

15. In so far as connected C1 writ petition is concerned, the appellate order is dated 28.06.2024, in connected C-2 writ petition, the order is of 31.05.2024 and in connected C3 writ petition, the same is of 31.05.2024 passed by Respondent no.3 in respective writ petitions, which also remands back the matter to the adjudicating authority, which is not permissible under

law.

16. Accordingly, the objection regarding relegating for preferring appeal before GST Tribunal is declined. Resultantly, the writ petitions are being decided in the following terms:

(a) Later part of the judgment and order dated 30.04.2024 (Leading petition), 28.06.2024 (connected C-1), 31.05.2024 (connected C2) and 31.05.2024 (connected C3), whereby matter has been remitted back to the adjudicating authority are set aside.

(b) The writ petition is disposed of with an observation to the Joint Commissioner, CGST (Appeals), Noida to decide the appeal in accordance with law within a period of two months.

17. With the aforesaid observations, the Leading, connected C1, connected C2 and connected C3 writ petitions stand **disposed of**.

February 16, 2026

N.S.Rathour

(Vikas Budhwar,J.)