

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**Case No: WP(C) No. 956/2023
CM No.2266/2023
c/w
WP(C) No. 953/2023
CM No. 2261/2023**

*Reserved on: 26.02.2026
Pronounced on:08.04.2026
Uploaded on:08.04.2026*

*Whether the operative part or full
Judgment is pronounced : **Full***

M/s Vijay Steel Industries
SIDCO Industrial Complex,
Bari Brahamana, Jammu
Jammu & Kashmir.

...Petitioner(s)/Appellant(s)

Through: Mr. Gautam Chugh, Advocate.

v/s

UT of Jammu & Kashmir through
State Tax Officer, Circle-G,
Excise & Taxation Complex,
Jammu.

.... Respondent(s)

Through: Ms. Monika Kohli. Sr.AAG with Ms. Sagira
Jaffer, Assisting counsel.

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE.**

JUDGMENT

PER OSWAL-J

1. The case set up in the present petition by the petitioner is that, in terms of Notification No. 56/2002-CE dated 14.11.2002, the petitioner

established a new unit for the manufacture of Tor Steel, M.S. Angle, M.S. Flat, M.S. Round, M.S. Square, Ribbed Bars and TMT Bars and commenced its commercial production with effect from 04.10.2005. In terms of the said notification, the petitioner was entitled to exemption from payment of excise duty, by way of refund, for a period of ten years from the date of commencement of commercial production.

2. In the interregnum, Notification No. 01/2010-CE dated 06.02.2010 came to be issued, whereby certain specified goods manufactured and cleared from units located in the erstwhile State of Jammu & Kashmir were exempted from excise duty. The said exemption was also available to new industrial units or to the industrial units existing before 06.02.2010 which had undertaken substantial expansion by way of increase of not less than 25% in the value of fixed capital investment in plant and machinery or had made new investments in terms of the prescribed conditions.
3. The petitioner completed the substantial expansion of its unit and commenced commercial production with effect from 26.05.2015 and, on the recommendation made by the District Industries Centre, the General Manager, DIC, Jammu acknowledged the said date of production as 26.05.2015 in favour of the petitioner.
4. Thereafter, upon the roll out of the GST regime with effect from 01.07.2017, the Government of India rescinded Notification No. 56/2002 dated 14.11.2002 and Notification No. 01/2010-CE dated 06.02.2010 vide Notification No. 21/2017 dated 18.07.2017. Subsequently, the Government of India issued Notification No.

10(1)/2017-DBA-II/NER dated 05.10.2017 (SBS) as well as CBEC Circular No. 1060/9/2017-CX dated 27.11.2017 providing for budgetary support, whereby an amount equivalent to 58% of the Central Goods and Services Tax (CGST) and 29% of the Integrated Goods and Services Tax (IGST) paid by the petitioner, after utilization of the input tax credit, was to be granted.

5. The State Government adopted the scheme introduced by the Government of India and issued similar notifications allowing reimbursement of State taxes as well as a portion of the Central taxes vide Notification Nos. 519 and 521, both dated 21.12.2017. For availing the benefit of budgetary support under the impugned Central Notification as well as the aforesaid State Notifications, the unit concerned was required to qualify as an “eligible unit.” The term “eligible unit” for the purpose of availing budgetary support has been defined in Para 4.1 of the Central notification, whereas the definition of “eligible manufacturing unit” has been provided in the State Budgetary Support Notification Nos. 519 and 521 dated 21.12.2017.
6. It is stated that the definition of “eligible unit” as provided in the State Notifications clearly demonstrates that the eligibility for State budgetary support is dependent upon the eligibility under the Central Budgetary Support Notification dated 05.10.2017. Accordingly, the satisfaction of the eligibility conditions under the said Central Notification by a manufacturing unit has a direct bearing upon its entitlement to the benefits under the State Budgetary Support Notifications.

7. The said scheme provides budgetary support to the manufacturing units to the extent of 58% of the Central Tax paid in the cash ledger account, whereas the remaining 42% of the Central Tax paid in the cash ledger account is reimbursed by the State Government in terms of Notification No. 521 dated 21.12.2017. The petitioner contends that it was earlier availing the area-based exemption under Notification No. 01/2010-CE dated 06.02.2010.
8. Pursuant to the application submitted by the petitioner, registration vide **Unique ID No. 57/JAMMU-1AAFFV2839PIZU** was granted to the petitioner vide communication dated 01.01.2018. The petitioner also applied for registration under the Scheme of Budgetary Support under Goods and Services Tax in terms of Notification SRO 519 and SRO 521 dated 21.12.2017 issued by the erstwhile State Government.
9. The petitioner further applied for budgetary support for the residual period under the Central Notification dated 05.10.2017. In pursuance thereof, an inspection team constituted by the Department of Industrial Policy and Promotion (DIPP) inspected the unit of the petitioner in terms of Clause 6 of the said Notification dated 05.10.2017 and returned findings in favour of the petitioner-unit, holding the petitioner to be eligible for entitlement to the budgetary support benefits under the said notification.
10. It is further stated that the petitioner, through various communications, applied for reimbursement of budgetary support for the periods corresponding to 09.04.2018, 11.04.2018, 14.07.2018, 15.10.2018, 15.01.2019, 15.04.2019, 12.07.2019, 15.10.2019,

21.01.2021 and 15.04.2021 before the concerned State Tax Authorities.

11.The respondent rejected the claim of the petitioner for reimbursement under the Budgetary Support Scheme on the ground that the item M.S. Scrap does not fall within the category of “specified goods” as defined under the exemption Notification No. 519 dated 21.12.2017. The said rejection, according to the petitioner, has been made in utter disregard of the substantive fact that the M.S. scrap sold by the petitioner had emerged during the manufacturing process and constituted manufactured goods. It is stated that such goods were also cleared during the pre-GST regime on payment of appropriate Central Excise Duty while availing the exemption under Notification No. 01/2010-CE dated 06.02.2010, and therefore duly qualify as “specified goods” for the purpose of budgetary support under the Central Budgetary Support Notification dated 05.10.2017 as well as the State Budgetary Support Notifications Nos. 519 and 521 dated 21.12.2017.

12.The sole contention of the petitioner is that the principal goods manufactured by it are TMT/CTD Bars, M.S. Flats, etc. During the course of the manufacturing process, certain odd sizes of TMT/CTD Bars also emerge, which are thereafter cut into uniform standard sizes, and the edge cuttings of such bars are sold in the market as M.S. Scrap. According to the petitioner, these edge cuttings are not mere waste but are manufactured products which have undergone the entire manufacturing process, whereby the raw material is converted into finished TMT/CTD Bars, which are distinct from the original raw material subjected to the manufacturing process.

13.The respondent has filed objections stating therein that a conjoint reading of Clauses 2.1 and 2.2 of SRO 519 dated 21.12.2017 clearly indicates that the benefit of the aforesaid scheme is available only in respect of goods manufactured by the industrial unit. It is contended that the petitioner is an industrial unit registered for the manufacture of TMT/CTD Bars and not for the manufacture of Scrap. According to the respondents, Scrap is merely a residue generated during the manufacture of TMT/CTD Bars and, therefore, the sale thereof does not qualify for reimbursement of State taxes, as M.S. Scrap is not a specified good for which the petitioner industrial unit has been registered. It is further stated that, as against the total reimbursement/refund of Rs. 3,19,05,528/- claimed by the petitioner for the accounting year 2017-18, reimbursement to the tune of Rs. 2,83,68,956/- was sanctioned in favour of the petitioner. Similarly, the reimbursement claims submitted by the petitioner for the subsequent periods, namely 2018-19, 2019-20 and 2020-21, also included tax paid on the sale of scrap. However, upon due scrutiny of the reimbursement claims, only the amount admissible under the scheme was allowed and the eligible refund amount was accordingly released in favour of the petitioner

14.Learned counsel for the petitioner, Mr. Chug, submitted that the manufacturing process for TMT bars inherently produces non-standard sized pieces alongside standard products. These pieces are subsequently sold as M.S. Scrap. He further contends that the respondent is not justified in refusing reimbursement, as the scrap in question arises from the same manufacturing process as the standard

products and remains materially and functionally similar, notwithstanding its non-standard size. Learned counsel further submitted that the Central authorities have been allowing reimbursement to the petitioner even on the sale of scrap; however, the respondent, without any justification, has declined to grant reimbursement on the ground that the petitioner is registered only for manufacturing specified products. He has drawn the attention of this Court to Clause 3.2 of SRO 521 as well as SRO 519 dated 21.12.2017, which provides that reimbursement under the State scheme is to be made only after verification and clearance of the claim of 58% to the industrial unit under the Central Scheme. It is thus argued that once the claim has been cleared under the Central Scheme, the respondent cannot withhold reimbursement on the ground that the petitioner's unit is registered for manufacturing specified goods and not scrap. In support of his submissions, learned counsel has placed reliance upon the judgment of the Hon'ble Supreme Court in *Escorts Ltd. v. Commissioner of Central Excise, Faridabad*, reported in **2015 (319) E.L.T. 406 (S.C.)**.

15.*Per contra*, Ms. Monika Kohli, learned Senior AAG, vehemently argued that under Clauses 2.1 and 2.2 of Notification SRO 519 dated 21.12.2017, budgetary support is restricted to goods manufactured and duly permitted by the concerned department, excluding those listed in Annexure-A. It is contended that as the scheme limits support to the specified goods only, the petitioner is ineligible for reimbursement on M.S. Scrap, which does not fall within specified goods under the said Notification.

16. Heard learned counsel appearing for the parties and perused the record.

17. In order to determine the controversy involved in the present petition, it is deemed appropriate to reproduce Clauses 2.1 and 2.2 of SRO 519 dated 21.12.2017, which read as under:-

2.1 Eligible Manufacturing Unit means a unit which avails the benefit under Central Scheme namely Budgetary Support under Goods and Services Tax regime to the Industrial Units located in States of Jammu & Kashmir, Uttarakhand, Himachal Pradesh and North East including Sikkim dated the 5th October, 2017.

2.2. 'Specified goods' means the goods manufactured by the Industrial Units as have been allowed by the department of Industries/Handloom/Handicrafts/Jammu and Kashmir Khadi and Village Industries Board/Small Scale Industries Development Corporation Limited (SICOP/J&K industrial Development Corporation (SIDCO) except those mentioned in **Annexure-A** to this Notification.

18. As is evident, "specified goods", as defined in the aforesaid SRO 519 dated 21.12.2017, means the goods manufactured by the industrial unit which have been allowed by the Department of Industries/Handloom/Handicrafts/Jammu & Kashmir Khadi and Village Industries Board/Small Scale Industries Development Corporation Limited (SICOP)/J&K Industrial Development Corporation (SIDCO), except those goods which are mentioned in Annexure-A to the said Notification. Annexure-A of the Notification

specifies eighteen (18) categories of goods that are expressly excluded from the purview of the scheme. They are as under:-

1. Repacked goods.
 2. Wooden shook's
 3. Bricks and Tiles
 4. Copper utensils manufactured by mechanized units.
 5. Soft drinks.
 6. Edible Oil and Vanaspati ghee
 7. Screen printing of glazed tiles.
 8. Cutting and stitching of doormat out of coir, jute and décor (wall to wall)
 9. Cutting of marble/granite
 10. Repair and servicing of Automobiles.
 11. Sweetmeats (excluding toffees candy etc.)
 12. Cycles/Tricycles.
 13. Cured skins
 14. Roasted peanuts and Dry Fruits
 15. Televisions, Air Conditioners, Refrigerators and Washing Machines, when assembled and manufactured by the industrial units located in the State and sold under the brand name of other products.
 16. Tobacco and its products
 17. Stone crushing
 18. Manufacturing of Ply Wood.
19. The respondent maintains that the petitioner is registered solely for the manufacture of TMT/CTD Bars, and not for the production of scrap. However, respondent simultaneously admits that this scrap is an inherent residue generated during the manufacturing process. The respondent contends that because scrap is not among the specified goods for which the petitioner is registered, it remains ineligible for reimbursement under the scheme.
20. Admittedly, the petitioner is engaged in manufacturing TMT/CTD Bars. According to the petitioner, the scrap in question consists of non-standardized lengths of TMT bars which, despite their dimensions, remain marketable and are sold as M.S. Scrap. It is undisputed by the respondent that these non-standard products retain

the essential character of TMT bars, having undergone the identical manufacturing process as the standard-sized finished products.

21.Notably, Annexure-A of Notification SRO 519 (dated 21.12.2017) is an exclusionary list; it disentitles only those industrial units manufacturing the goods specifically enumerated therein. As the petitioner is registered for the manufacture of TMT/CTD Bars, and the respondent concedes that the scrap in question is a necessary residue of that manufacturing process, the exclusion does not apply. Furthermore, the respondent acknowledges that this scrap undergoes the identical manufacturing process as the primary TMT/CTD Bars.

22.We have examined the order dated 01.07.2022 passed by the respondent whereby reimbursement in respect of the sale of M.S. Scrap has been declined on the ground that the same does not fall within the category of “specified goods.” Upon consideration of the matter, we are of the view that the respondent was not justified in refusing reimbursement on the ground that M.S. Scrap is not a specified good under the scheme.

23.The petitioner contends that the Central Tax Authorities have granted the benefit of reimbursement to the petitioner for the sale of M S Scrap.

24.In view of the aforesaid discussion, we are of the considered opinion that the order dated 01.07.2022 is not sustainable in the eyes of law and the same is accordingly quashed. The respondent is directed to consider the petitioner’s claim afresh, keeping in view the observations made hereinabove, and pass a reasoned order in

accordance with the applicable SROs within a period of one month from the date of receipt of the order.

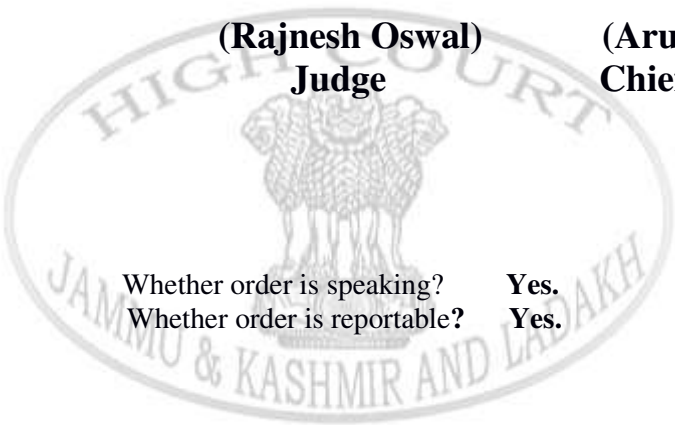
25.Disposed of as above along with connected CM(s), if any.

WP(C) No. 953/2023

26.Learned counsel for the respective parties submitted that the controversy involved in the present petition is identical to that in the connected matter, namely, WP(C) No. 956/2023. Consequently, the impugned order, in the present petition shall also stand quashed in the same terms. Accordingly, this petition is also **disposed** of along with connected CM(s), if any, in terms of the judgment passed in WP(C) No. 956/2023.

27.The Registry shall place a copy of this judgment on the record of the connected petition(s).

Jammu
08.04.2026
Madan Verma-Secy

	(Rajnish Oswal)	(Arun Palli)
	Judge	Chief Justice
		
Whether order is speaking?	Yes.	
Whether order is reportable?	Yes.	