IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 415 OF 2022

Varstreet Software India Pvt. Ltd. …..Petitioner

Vs.

The Assistant Commissioner of State Tax and Anr. …..Respondents

Ms. Ankita Vashistha a/w Mr. Gopal Mundhra i/by Economic Laws for Petitioner.
Ms. S. D. Vyas, 'B' Panel counsel for State.

CORAM : K. R. SHRIRAM &
ARIF S. DOCTOR, JJ.

DATE : 18th NOVEMBER, 2022

P.C.:-

1. Petitioner is impugning four orders, all dated 22nd January, 2021, passed by the same adjudicating authority namely U. D. Londhe, Deputy Commissioner of State Tax (Appeals) PUN-APP-E-703, Pune. Petitioner's case is that the order itself indicates non application of mind inasmuch as all the orders are (a) similarly worded (b) the submissions and contentions of Petitioner is accepted but in the operative part the Appeals filed have been disallowed. Ms. Vyas appearing for Respondents made a real effort to defend the order but finally had to throw in the towel since Court also felt Petitioner's case had to be accepted. In fact in the first order paragraph No.6 reads as under;

> *"6. In light of submission by the Ld. Counsel for the appellant and the documentary evidence produced in appeal. I am inclined to accept the contention of the appellant that there is sufficient compliance of the*

> *procedural law as prescribed under Rule 89(4) of GST Rules, 2017. In the result refund claim of the appellant u/s 54(1) of GST Act, 2017 is found to be allowable and thus allowed."*

But in the operative part it says Appeal partly allowed. In the other orders, Respondent No.2 accepts that Petitioner was entitled to make zero rated supply and seek refund of unutilised Input Tax Credit. But there are no sufficient reasons along with submissions of Petitioner. Therefore all the four orders impugned in the Petition are hereby quashed and set aside. The matter is remanded to Respondent No.2 for de-novo consideration. The officer, who will rehear the matter will be a person other than U. D. Londhe. Before passing any order, which shall be a reasoned order, Petitioner shall be given a personal hearing, notice whereof shall be communicated at least seven working days in advance.

2. We clarify that we have not made any observation on the merits of the matter. We shall also note that there is no GST Tribunal yet constituted.

(ARIF S. DOCTOR, J.) **(K. R. SHRIRAM, J.)**