**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 14.09.2022**

**CORAM**

**THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ**

**W.P.(MD).No.23383 of 2019**

M/s.Yentop Manickam Edible Oils (P) Limited,
Represented by its Director,
M.Mathavan. ... Petitioner

**Vs.**

The State Tax Officer-I,
Virudhunagar Assessment Circle,
Virudhunagar. ...Respondent

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent in GST No. 33AAACY1338C1ZU/ May-2018 and quash the order dated 03.10.2019 as unlawful and invalid and further direct the respondent to refund the IGST of Rs.2,02,500/- excessively paid on ocean freight under RCM basis as per Notification No.10/2017 of Integrated Tax(Rate) dated 28.06.2017 as per section 5(3) of the IGST Act.

For Petitioner : Mr.R.D.Ganesan

For Respondent : Mr.M.Prakash,
Additional Government Pleader.

## ORDER

This Writ Petition is filed challenging the impugned order dated 03.10.2019, whereby, the refund application filed by the petitioner on IGST paid on ocean freight under RCM basis for the month of May 2018 was rejected.

2. A perusal of the impugned order would show that the claim for refund of IGST paid on ocean freight under RCM basis was rejected primarily on the basis that objections filed by the petitioner only referred to interim order granted by the Gujarat High Court in the case of ***Mohit Minerals Private Limited Vs. Union of India reported in 2018 (10) GSTL 424,*** as would be evident from the following extracts in the impugned proceedings:

> *"The objections filed by the supplier are discussed as detailed below:*
> *The supplier has referred Mohit Minerals P. Limited Vs. Union of India reported in 2018 (10) GSTL 424 (Guj) High Court case. In the abovesaid Special Civil Application No.726 of 2018, which was decided on 9.2.2018, the supplier was given only interim relief and the final order was not passed. Hence the contention of the supplier that the charging GST again on ocean freight not permissible is not correct."*

3. However, subsequently, the Gujarat High Court decided the issue relating to ocean freight in favour of the assessee. It is submitted by the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the Respondent in unison that subsequent to passing of the impugned order, the order of the Gujarat High Court has been affirmed by the Hon'ble Supreme Court in the case of ***Union of India and another Vs. Mohit Minerals Private Limited*** in ***Civil Appeal No.1390 of 2022*** dated 19.05.2022.

4. It was thus submitted that the Respondent shall re-examine the claim of refund made by the petitioner in accordance with law and keeping in mind the aforesaid decision of the Hon'ble Supreme Court in the case of *Mohit Minerals Private Limited* (cited supra).

5. In view of the same, the impugned order dated 03.10.2019, is set aside. The Respondent is directed to re-examine the claim of refund made by the petitioner in accordance with law and keeping in mind the decision of the Hon'ble Supreme Court in the case of *Mohit Minerals Private Limited* (cited supra). The above exercise shall be completed by the Respondent within a period of eight (8) weeks from the date of receipt of a copy of this order.

6. The Writ Petition stands disposed of on the above terms. There shall be no order as to costs.

**14.09.2022**

Index : Yes / No
Internet : Yes/ No
Lm

To
The State Tax Officer-I,
Virudhunagar Assessment Circle,
Virudhunagar.

**MOHAMMED SHAFFIQ, J.**

Lm

**W.P.(MD).No.23383 of 2019**

**14.09.2022**