IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :10.03.2025
Coram
The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.8057 of 2025
and
W.M.P.Nos,9022 & 9024 of 2025

M/s. Star Health and Allied Insurance Company Ltd.
Rep. by its Authorized Signatory, Mr.P.B.Srinivas. ...Petitioner

Vs.

1. The Additional Commissioner
Office of the Commissioner of GST & Central Excise
Chennai South Commissionerate, MHU Complex
No.692, 5th Floor, Anna Salai,
Nandanam, Chennai – 600035.
2. The Additional Director
Director General of Goods and Services Tax Intelligence
Zonal Unit, Mumbai, 3rd Floor,
N.T.C.House 15, N.M.Road, Ballard Estate
Mumbai- 400 001. ...Respondents

Prayer

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for records of the impugned Order-in-Original No.20 /2025-DGGI (ADC) with DIN : 20250159TL00008858EA dated 17.01.2025 passed by the first respondent and to quash the same.

For Petitioner : Ms.R.Charulatha

For Respondents : Mr.Sai Srujan Tayi,
Senior Standing Counsel
assisted by Ms.Pooja Jain,
Junior Standing Counsel

Order

Heard Ms.R.Charulatha learned counsel appearing for the petitioner and Mr.Sai Srujan Tayi, learned Senior Standing Counsel assisted by Ms.Pooja Jain, learned Junior Standing Counsel who takes notice on behalf of the respondent. With consent, the main Writ Petition is taken up for final disposal at the stage of admission itself.

2. The challenge in this Writ Petition is to the order passed by the first respondent dated 17.01.2025 and to quash the same.

3. At the outset, learned counsel for the petitioner would submit that the issue involved in the present Writ Petition is no longer *res integra,* as this Court, in Writ Petitions involving identical issue, viz., in W.P.Nos.8194, 8196, etc. of 2024, allowed the Writ Petition and set aside the impugned orders vide order dated 18.10.2024,, and consequently, directed the respondent-Department to refund the amounts, which were deposited by the petitioners therein. The learned counsel also annexed the photocopy of the said order dated 18.10.2024 at Page No.180 of the Typed-Set of papers for reference, and therefore, prays to allow the present Writ Petition as well.

4. The learned Senior Standing Counsel for the respondents fairly submitted that the issue involved in this Writ Petition is covered by a decision rendered by this Court in W.P.Nos.8194, 8196 etc., of 2024 which is relied on by the petitioner.

5. Thus, this Court taking into consideration of the fact that the issue involved in this Writ Petition is already covered by a decision rendered by this Court in W.P.Nos.8194, 8196, etc. of 2024, wherein, the issue as to "Whether the co-insurance premium and re-insurance commission would be treated as supply or whether the petitioners-assessees are liable to pay GST? was decided in favour of the petitioners-assessees by holding that the co-insurance premium and re-insurance commission cannot

not be considered as supply, this Court is inclined to allow the present Writ Petition as well on the same lines and for better appreciation, the operative portion of the said order dated 18.10.2024, is extracted as under;_

> "**12.** Considering the submissions made by the learned counsel on either side, it appears that, the amounts deposited by the petitioner is not the amount paid towards the discharge of tax liability, and only upon the direction of this Court, the amounts stated supra have been deposited. Therefore, the amount so deposited cannot be considered as the amount paid for the purpose of discharge of tax liabilities. The amount so deposited can be utilized for the payment of tax only upon the final adjudication of the present Writ Petitions. There is no doubt that the amount, which was deposited subsequent to the order of this Court, would be the amount for discharging the output tax liabilities, however, the utilization of the said amount has been deferred till the disposal of these petitions. As per the inclusion of Item Nos.9 and 10 to the Schedule III of CGST Act, 2017 read with Circular dated 11.10.2024, the amount, which was paid or utilized for the discharge of tax liabilities, would not be refunded by the Department. However, in this case, the utilization of amount, which was deposited subsequent to the order passed by this Court, has been deferred till the disposal of these petitions and hence,

as on date, the said amount is only a deposit. Therefore, as per the aforesaid inclusion of Item Nos.9 and 10 to the Schedule III of CGST Act, 2017, this Court is of the considered view that the coinsurance premium and re-insurance commission would not be considered as supply and thus, the petitioners are certainly entitled for refund. 13. In view of the the above findings, the impugned orders are liable to be set-aside. Accordingly, the impugned orders are set-aside. While setting aside the impugned orders, this Court directs the respondent- department to re-fund the amounts, which were deposited by the petitioners in W.P.No.8194, 8196 & 8885 of 2024 to an extent of Rs.10,00,00,000/- (Rs.10 Crores), Rs.12,00,00,000/- (Rs.12 Crores) & Rs.13,50,00,000/- (Rs.13.50 Crores) respectively, within a period of four weeks from the date of receipt of a copy of this order. 14. In the result, these Writ Petitions are allowed in aforesaid terms. No costs. Consequently, connected Miscellaneous Petitions are closed "

6. Thus, following the decision of this Court, which is referred to supra, the impugned order is set aside and the Writ Petition is allowed. The respondent-Department is directed to refund the amount, which was deposited by the petitioner within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected

Miscellaneous Petitions are closed.

10.03.2025

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Index : yes/no
Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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