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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 5734/2025 & CM APPL. 26164/2025**

M/S SUN AUTOMATION LIMITED

.....Petitioner

Through: Mr. Devendra Jain, Mr. Rajat Mittal,
Ms. Priyanka & Mr. S. Negoi,
Advocates.

versus

SALES TAX OFFICER CLASS II/AVATO & ORS.Respondents

Through: Mr. Anurag Ojha, Sr. SC with Mr.
Subham Kumar & Mr. Dipak Raj,
Advocates.
Ms. Neha Malik, Sr. SC (CGST)

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

ORDER

% **01.05.2025**

1. This hearing has been done through hybrid mode.

CM APPL. 26165/2025 & CM APPL. 26166/2025 (for exemption)

2. Allowed, subject to all just exceptions. Applications are disposed of.

W.P.(C) 5734/2025 & CM APPL. 26164/2025

3. The present petition has been filed by the Petitioner –M/s Sun Automation Limited under Articles 226 & 227 of the Constitution of India challenging the show cause notice dated 27th November, 2024 (*hereinafter, ‘the SCN’*) as also the consequent order dated 27th February, 2025 (*hereinafter, ‘the impugned order’*) passed by the office of Sales Tax Officer Class II/AVATO Jurisdiction: Ward 71:Zone 6: Delhi, State/UT: Delhi (*hereinafter, ‘the DGST Department’*) pertaining to the tax period April 2020



to March 2021.

4. *Vide* the impugned order, a demand of Rs.157,66,85,186/- has been raised, both, of tax and penalty in respect of certain transactions entered into between the Petitioner and two companies namely M/s Microlyte Energy Pvt. Ltd and M/s. Jetibai Grandsons Services India (P.) Ltd.

5. The submission of the Id. Counsel for the Petitioner is that the demand raised in the impugned order is not sustainable in view of Section 6(2)(b) of the Central Goods and Service Tax Act, 2017 (*hereinafter*, '*the CGST Act*'), as the Central Goods and Service Tax Department (*hereinafter*, '*the CGST Department*') has already adjudicated the matter on the same issue and thus, the DGST Department does not have the power to adjudicate upon the same. The overlapping has been explained by the Petitioner in the synopsis to the present petition by way of table. The said table is extracted herein below:



Particulars	Proceedings before CGST authorities	Proceedings before SGST authorities	Remarks												
Department issuing Notices	Joint Commissioner (Adjudication), CGST Delhi North	Sales Tax Officer Class II /AVATO, Ward 71:Zone6:Delhi	Both CGST and SGST authorities have initiated the respective proceedings against the assessee regarding demand emanating from the same transactions.												
Date of Order	30.08.2024	27.02.2025													
Financial Year	2020-21	2020-21													
Name of Disputed Suppliers/ Cancelled dealers	M/s Microlyte Energy Private Limited &M/s. VV Infraspaces Private Limited	M/s Microlyte Energy Private Limited													
Name of Disputed Customer	M/s. Jetibai Grandsons Services India (P.) Ltd	M/s. Jetibai Grandsons Services India (P.) Ltd	Order dt. 30.08.2024 imposed penalty of Rs. 46,76,21,565/- u/s 122(I)(ii) on the ground that invoices were raised without actual supply of goods. Order dt. 27.11.2024 imposed tax demand of Rs. 38,98,17,404 /- on the short-payment of tax vide GSTR-9 which was paid by utilization of ITC. This ITC accrued on account of purchases from M/s Microlyte Energy Pvt. Ltd. And output tax liability towards sales to M/s Jetibai Grandsons Services (P) Ltd. Was discharged through this very ITC claimed. In other words, both the demands imposed pertain to the same transactions.												
Demand of Tax and Penalty as per the said Orders	Amounting to Rs. 46,76,21,565/- of Penalty under section 122(1)(ii) of CGST Act, 2017 for issuing invoices or bills invoicing CGST/SGST/IGST without supply of goods and services. (Page 230, Para 23 (C) (1))	Amounting to Rs. 38,98,17,404 /- of Tax demand alleged to be due to incorrect declaration of tax on outward supplies resulting from denial of ITC in GSTR-09.													
		<table><tr><th>Particulars</th><th>(in Rs.)</th></tr><tr><td>Total Outward Tax Liability :-</td><td>46,76,21,564</td></tr><tr><td>Less:- Paid through cash</td><td>3,86,502</td></tr><tr><td>Less:- Paid through ITC</td><td>7,74,17,658</td></tr><tr><td>Net Tax Payable</td><td>38,98,17,404</td></tr><tr><td>Already Paid by the assessee through ITC</td><td>38,98,17,404</td></tr></table>		Particulars	(in Rs.)	Total Outward Tax Liability :-	46,76,21,564	Less:- Paid through cash	3,86,502	Less:- Paid through ITC	7,74,17,658	Net Tax Payable	38,98,17,404	Already Paid by the assessee through ITC	38,98,17,404
		Particulars		(in Rs.)											
		Total Outward Tax Liability :-		46,76,21,564											
		Less:- Paid through cash		3,86,502											
		Less:- Paid through ITC		7,74,17,658											
Net Tax Payable	38,98,17,404														
Already Paid by the assessee through ITC	38,98,17,404														



Demand of Tax and Penalty as per the said Orders	Amounting to Rs. 46,62,99,565/- of Penalty under section 122(1)(vii) of CGST Act, 2017 for taking ITC or utilising Input Tax Credit of CGST/SGST/IGST without supply of goods and services (Page 230, Para 23(C)(2))		Amounting to Rs. 46,48,63,774 /- of Tax demand due to ITC claimed from Cancelled dealers, return defaulters.		Order dt. 30.08,2024, under Para 23(C)(2), imposed penalty u/s 122(1)(vii) on the ground that the ITC utilized were pertaining to transactions without receipt of goods and services. Order dt. 27.02.2025 imposed tax demand on the ground that the suppliers whose ITC has been utilized by the assessee were cancelled dealers/ return defaulters. In other words, both the demands imposed pertain to the same transactions.
	Particulars	(in Rs.)	Particulars	(in Rs.)	
	Microlyte Energy Private Limited	46,48,63,774.68	Microlyte Energy Private Limited	46,48,63,774.68	
	VV Infraspaces Private Limited	14,35,791			

6. The submission on behalf of the Petitioner is that neither the SCN nor the impugned order issued upon the Petitioner by the DGST Department is tenable.

7. Learned counsel for the Petitioner also submits that in so far as the demand by the CGST Department is concerned, the same was challenged before the Commissioner (Appeals-I), CGST and the appeal in respect of the said proceedings has also been decided vide Order-in-Appeal No.: 17-18/ Commr./Central Tax/ Appeal-I/ Delhi/ 2025 dated 3rd April, 2025, wherein a penalty has been imposed on the Petitioner.

8. In view of the above, it is clear that the DGST Department shall be required to look at the order passed by the appellate authority dated 3rd April, 2025. The relevant provision being relied upon the Petitioner i.e., Section 6(2)(b) of the CGST Act is reproduced herein below:



6. Authorisation of officers of State tax or Union territory tax as proper officer in certain circumstances

Xxxx

(2) Subject to the conditions specified in the notification issued under sub-section (1),—

xxxxx

(b) where a proper officer under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act has initiated any proceedings on a subject matter, no proceedings shall be initiated by the proper officer under this Act on the same subject matter.

9. Further, this Court in *W.P. (C) 8625/2022* titled *Amit Gupta v. Union of India & Ors.*, while discussing the above-stated provision at length, has held as under:

28. To ensure that there are no multiple proceedings in regard of the central and the state officers being authorized as proper officers, Clause (b) of Section 6(2) of the Act provides that where a proper officer under the SGST Act and the UGST Act has initiated proceedings on a subject matter, the proper officer under the Act would not initiate proceedings “on the same subject matter”. This provision of CGST is also mirrored by Clause (b) of Section 6(2) of the SGST Act and UGST Act as well. Thus, where a proper officer under the CGST Act had initiated proceedings on a subject matter, no proceedings would be initiated by proper officer authorized under the SGST Act or UGST Act on the same subject matter.

29. It is clear that the object of Section 6(2)(b) of the Act is to ensure that cross empowerment of officers of central tax and state tax do not result in the taxpayers being subjected to parallel proceedings.

30. We are unable to accept that the provisions of Section 6(2)(b) of the Act proscribe the transfer of investigations or proceedings as is contended on behalf of the petitioner. **The object of Section 6(2)(b) of the Act is to avoid multiple proceedings by State Tax Officers and Central Tax Officers**



on the same subject matter and the rule of purposive interpretation requires Section 6(2)(b) of the Act to be read in the light of the aforesaid object.

10 In light of the rationale of Section 6(2)(b) of the CGST Act, as explained in the decision herein above, it is clear that the DGST Department shall be required to consider the order dated 3rd April, 2025 passed by the appellate authority and shall accordingly reconsider as to whether the SCN dated 27th November, 2024 as also the consequent impugned order dated 27th February, 2025 will sustain in view of Section 6(2)(b) of the CGST Act.

11. The impugned order is accordingly set aside. Let the order of the Commissioner (Appeals-I), CGST dated 3rd April, 2025 be placed before the DGST Department so that the matter can be considered afresh. A personal hearing shall be afforded to the Petitioner, before taking any decision.

12. The petition is disposed of in said terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

MAY 1, 2025/da/ss