IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.812 OF 2025

Dar Al Handasah Consultants (Shair and Partners)
India Pvt. Ltd. ...Petitioner
Versus
Union of India and Ors. ...Respondents

Mr. Prakash Shah, Senior Advocate a/w. Mr. Jas Sanghavi and
Mr. Suyog Bhave i/b. PDS Legal, for the Petitioner.
Mr. Ram Ochani a/w Mr. Suman Kumar Das a/w. Ashutosh Mishra,
for Respondent Nos. 1 & 4.
Ms. Shruti D. Vyas, Addl. G.P. a/w. Mr. Aditya R. Deolekar, AGP,
for Respondent Nos. 3 to 5-State.

**CORAM: G. S. KULKARNI &
AARTI SATHE, JJ.**

DATE: 19th January 2026

ORAL ORDER (Per: AARTI SATHE, J)

1. This Petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs:

> *a.) this Hon'ble Court be pleased to issue a writ of certiorari or writ in the nature of certiorari or any other appropriate writ, direction or order calling for the records and proceedings of case of the Petitioner and after examining legality and validity thereof, quash and set aside the Order in Original having Reference No. DCST-E-706/Nodal-4//2018-19/DRC-7/2024-25/B- 130 dated 22.04.2024 passed by the Respondent No.3.*

b.) that this Hon'ble Court may be pleased to issue a Writ of Prohibition or any other writ, order or direction under Article 226 of the Constitution of India prohibiting the Respondents from taking any further steps or proceedings pursuant to or in furtherance of or in implementation of the Impugned Order dated 22.04.2024.

c.) pending the hearing and final disposal of present Writ Petition, Hon'ble Court be pleased to restrain the Respondents by themselves, their successors in office, subordinates, servants and agenttion, operation & implementation of Order in Original having Reference No. DCST-E-706/Nodal-4//2018-19/DRC-7/2024-25/B- 130 dated 22.04.2024 be stayed;s by an interim order and injunction of this Hon'ble Court from taking any further steps or proceedings pursuant to the execution, operation & implementation of Order in Original having Reference No. DCST-E-706/Nodal-4//2018- 19/DRC-7/2024-25/B-130 dated 22.04.2024 be stayed;

2. The short issue arising for consideration in the present Petition is that the Petitioner is aggrieved by the Order-in-Original bearing Reference No. DCST-E-706/Nodal-4/2018-19/DRC-7/2024-25/B-130 dated 22nd April 2024, passed by Respondent No. 3, whereby a demand of Rs. 17,83,696/- has been raised under Section 73 of the Maharashtra Goods and Services Tax Act, 2017 and the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the MGST Act and the CGST Act, 2017 respectively), along with interest of Rs. 19,55,823/- under Section 50 read with Section 73, and a penalty of Rs 1,78,370/- imposed under Section 73(9) of the MGST Act and CGST Act. Consequently, a total demand of Rs. 39,17,889/- has been raised against the Petitioner.

3. The brief facts are:

The Petitioner is engaged in the export of engineering services to its holding company, namely Dar Al-Handasah Consultants Shair and Partners Holdings Limited, Jersey, United Kingdom. The Petitioner holds an Importer-Exporter Code (IEC) No. 3107010553, issued on 17th September 2007 in accordance with Paragraph 2.12 of the Foreign Trade Policy (FTP), 2004–2009, and is engaged in the export of engineering services as stated aforesaid. The Petitioner is duly registered under the Goods and Services Tax regime bearing GST Registration No. 27AAACCD6524H1ZQ.

4. It is the Petitioner's contention that, in light of the exemption provided under Notification No. 52/2003-Customs dated 31st March 2003, the Petitioner imported capital goods by filing the requisite Bills of Entry and lawfully claimed exemption under Chapter 6 of the FTP.

5. On 28th September 2007 the Petitioner vide an application sought permission for setting up Software Technology Park (STP) and the said application was accepted by approval committee vide letter of approval issued under Para 6.6 (a) of FTP 2004-09. On 31st July 2018 and 5th October 2018, the Petitioner by letters of even date intimated the authorities of Software Technology Park about their proposal to exit the scheme of STP. In response to the said letter dated 31st July 2018, the STP authorities issued provisional in-principal exit letter dated 5th October 2018, and the exit was made subject

to payment of excise and customs duties and compensation cess. The Petitioner computed the applicable customs duty in the asset after considering the depreciation as per clauses (a) and (b) of para 6.37 of the Handbook of Procedure (HBP) relating to FTP 2015-20 during which the capital goods were put to use. The duties calculated were to the tune of Rs. 45,25,952/-[Basic Custom Duty (BCD)- Rs.11,23,495/- + Social Welfare Surcharge (SWS)- Rs.1,12,350/- + Integrated Goods and Services Tax (IGST)- Rs.32,90,108/-]. The amount of Rs. 32,92,108/- paid as IGST was available to the Petitioner as Input Tax Credit (ITC) under Section 16 of the CGST Act. Accordingly, the Petitioner availed an amount of Rs. 32,90,108/- as ITC in its Electronic Credit Ledger.

6. On 25th February 2019 the calculation of duties of customs was approved by Respondent No.4 by a letter of the even date and the Petitioner was discharged of his duty, liability by paying approved custom duties. On 6th March 2019 the Petitioner discharged the aforesaid duty liability by paying the approved calculated duties of customs through TR-6 challan.

7. On 11th March 2019, the Petitioner requested Respondent No.4 to provide the No Objection Certificate (NOC) in the light of the duty liability as being discharged. Accordingly on 28th March 2019, the Respondent No.4 issued NOC, certifying that the duty liability has been discharged by the

Petitioner and therefore the Petitioner obtained the final exit letter dated 4th April 2019 on the basis of the aforesaid NOC.

8. Thereafter audit proceedings under Section 65 of the MGST Act, 2017 were initiated against the Petitioner which culminated in the issuance of intimation of tax payable in Form DRC-01A dated 6th December 2023. The Petitioner accordingly filed a response dated 21st December 2023 to the aforesaid letter of intimation.

9. On 26th December 2023 Respondent No.3 issued a show cause notice in Form DRC-01 that the tax paid by the Petitioner for debonding did not fall under the input tax under Section 2(62) of CGST Act and therefore was not eligible as ITC under Section 2(63) of the CGST Act. It was further alleged that IGST was paid at lower rate instead of 18%, and differential IGST is payable to the tune of Rs.8,89,549/-. The Petitioner filed a detailed reply to the aforesaid Show cause notice, denying its liability to pay the aforesaid amounts.

10. However, Respondent No.3 without appreciating the submissions made by the Petitioner, passed a non-speaking Order-in-Original *inter alia*, confirming the proposal of demand under the show cause notice dated 26th December 2023. Being aggrieved by the aforesaid Order-in-Original the Petitioner has filed the present Petition before this Court.

11. We have heard learned counsels on behalf of the Petitioner and Respondents. On an earlier occasion this matter had come up before a Co-ordinate Bench of this Court which passed an order dated 20th September 2025, recording that the Petitioner upon de-bonding of the imported and indigenous capital goods had paid the following amounts to the Customs Authorities, i.e., a) BCD- Rs.11,23,495/-; b) SWS- Rs.1,12,350/-; and c) IGST- Rs.32,90,108/-. This Court had also specifically noted the contention of learned Senior counsel for the Petitioner Mr. Prakash Shah, that despite having paid IGST to the extent of Rs.32,90,108/- on debonding, the State Authorities are once again insisting upon the Petitioner paying the IGST, which is not a correct position in law and the same amount cannot be demanded both by the State authorities and the Central authorities. . On the said date the matter was adjourned on the ground that learned AGP Mr. Deolekar, appearing for the Respondent - State needed to take instruction on the affidavit filed by the Commissioner of Customs.

12. At today's hearing Mr. Prakash Shah, Senior Advocate, submitted that the IGST payable on debonding of indigenous goods was confirmed by Respondent No. 4 and Respondent No. 4 is the competent authority to confirm the assessment of duty for debonding and issue NOC. The NOC issued by the customs authorities stated the amount of customs duty, SWS and IGST that was required to be discharged by the Petitioner for debonding

the indigenous and imported capital goods while exiting the STP unit. The said payment included the IGST of Rs. 5,18,496/- on indigenous goods. It was therefore submitted that by the impugned order dated 22nd April 2024 the same is sought to be demanded once again by Respondent No. 3.

13. Mr. Aditya Deolekar learned AGP, appearing for the Respondent – State reiterated the submissions made in the affidavit dated 13th August 2025 filed by Respondent No. 4. The said affidavit categorically has submitted as follows, the relevant paragraphs of which are reproduced below:

> *"d. The Petitioner filed an application on 05.11.2018 to the Customs Authorities for de-bonding of imported and indigenous capital goods. After considering all the documents submitted by the Petitioner in this regard ,the Deputy Commissioner of Customs, Pune had granted the permission dated 25.02.2019 for de-bonding in terms of para 4(a)(i) of the Notification 52/2003- Customs dated 31.03.2003 r/w. Relevant Customs and Central Excise Circulars and also under the Provisions of Chapter 6.15(b) of the Foreign Trade Policy, 2015-20, and assessed payable duties on depreciated value on those capital goods, the depreciated value was Rs.1,85,92,193/-, wherein the payable customs duties comes to Rs.45,25,925/-, which includes (BCD Rs. 11,23,495/-, SWS Rs. 1,12,350/- and IGST Rs. 32,90,108/-).*
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> *e. The Respondent No. 4 had issued No Objection Certificate dated 28.03.2019 to the petitioner, inter-alia, certifying that the duty liability has been discharged by the Petitioner vide TR-6 Challan 57 dated 06.03.2019. On the basis of the NOC granted, the Petitioner obtained permission for final exit from STP Authorities, Pune."*

14. In view of the aforesaid affidavit filed by the Commissioner of Customs dated 13th August 2025, learned Counsel on behalf of the Petitioner has submitted that in respect of the tax liability which has been confirmed by order dated 22nd April 2024, he does not wish to agitate in respect of the amount of Rs. 19,53,894/- which pertains to tax interest and penalty in respect of IGST payable on de-bonding of indigenous capital assets. However, in respect of the other demands made amounting to Rs.

11,38,876/- which include tax, interest and penalty in respect of excess ITC alleged to have been availed by the Petitioner for de-bonding of indigenous capital asset an amount of Rs. 8,25,017/- (which also included tax, interest and penalty) in respect of alleged ineligible ITC u/s 17(5) of the MGST and CGST Act 2017, he would prefer an appropriate appeal to the Joint Commissioner (Appeals)-I under section 107(5) of the GST Act 2017.

15. Learned counsel on behalf of the Respondents have no objection to the aforesaid submissions made on behalf of the Petitioner. In view of the aforesaid submissions, we deem it appropriate to pass the following order which will meet the ends of justice:

ORDER

1. The Petitioner to file an Appeal in respect of the aforesaid disputed amounts as described/ enumerated in paragraph 13 within a period of 6 weeks from the date this order is made available on the official website of this Court before Joint Commissioner (Appeals) – I under Section 107 of the CGST Act, 2017.

2. If the Petitioner prefers an appeal within 6 weeks from the date this order is made available before the Joint Commission (Appeals) - I, the Petitioner will be entitled to the benefit of the period during which this Petition remained pending, for the purpose of seeking condonation of delay if any.

3. Writ Petition stands disposed of in the above terms. No costs.

(AARTI SATHE, J.) (G. S. KULKARNI, J.)

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