IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9065 OF 2025

Dhiraj Industries ... Petitioner
versus
State of Maharashtra and others ... Respondents

Adv.Prasannan Numboodiri with Ms.Pratibha Namboodiri, Mr.Rishabh Sinha, Adv.Nakshtra Mahadik for Petitioner.

Ms.Shruti D.Vyas, Additional Govt.Pleader, with Mr.Aditya Deolekar, AGP, for State.

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

DATE: 4th February 2026

P.C.

1. This Petition under Article 226 of the Constitution of India is filed challenging the Order-in-Original dated 04th September 2024 passed by Respondent No.3 denying the Input Tax Credit (ITC) of Rs. 78,93,129/- to the Petitioner on the ground that it was wrongly availed or utilized by reason of fraud and willful misstatement/suppression of facts, inasmuch as the registration of supplier i.e. Chandan Enterprises was cancelled, and the said supplier was declared as a non-genuine taxpayer (NGTP). A Notice in FORM GST DRC-01 bearing Reference No. ZD270724078796M dated 30th July 2024 was issued to the Petitioner intimating that tax, interest and penalty as computed for the period of 2018-2019 of an amount of Rs. 268,36,638/- was payable by the Petitioner as its

supplier M/s. Chandan Enterprises was declared non genuine tax payer (NGTP) by the Department, the Petitioner did not fulfil the criteria required for claiming ITC as per Section 16 and Rule 42 of the Goods and Services Tax, 2017 (GST Act, 2017).

2. The Petitioner replied to the aforesaid notice by its letter dated 29th August 2024 and made detailed submissions as to why the aforesaid demand could not be raised on the Petitioner and the ITC credit granted. In its reply the Petitioner also requested for a personal hearing before any action/order was passed against them.

3. It is the Petitioners contention that in spite of the aforesaid letter dated 29th August 2024, the impugned order is passed without considering the submissions made therein and has confirmed the demand of Rs. 2,69,94,500/- without appreciating the facts of the case. It is also the Petitioners contention that the impugned order has only taken the reply of the Petitioner on record and not dealt with any of the submissions made therein. The relevant portion of the impugned order is reproduced below: -

> "As per Section 74(1) of MGST/CGST Act, 2017, show-cause notice in form DRC-01 was issued to the taxpayer requiring him to pay Tax, interest and penalty on ITC wrongly availed. Taxpayer replied on BO Portal to the show cause notice on 29/08/2024. Mr. J. Sengar (Adv.) also attended office on 02/09/2024 to submit the physical submission of the taxpayer. The submission of the taxpayer kept on record. The reply submitted by taxpayer found not in order and ITC is not claimed as per the provisions of Act."

4. This Court by an earlier order dated 08th July 2025 had noted that the impugned order was a non-speaking and unreasoned order and which prima facie amounted to violation of natural justice. The order 08th July 2025 passed by this Court is reproduced below: -

> "1. Heard learned counsel for the parties.
>
> 2. Upon our query as to why the petitioner is not appealing the impugned orders, Mr. Namboodiri, learned counsel for the petitioners submits that the impugned orders contain no reasons and from the perusal of the same, it is evident that the exhaustive reply filed by the petitioners to show cause notice has not been considered. He submitted that the impugned order only observes that the reply submitted by the tax payers is not found to be in order and the ITC is not claimed by the petitioners as per the provisions of the Act. He submits that these are conclusions and not reasons.
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> 3. Based on the above contention, Mr. Namboodiri submitted that passing of non-speaking or unreasoned orders amounts to violation of natural justice. In such circumstances, he submitted that the rule of exhaustion of alternate remedies should not apply.
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> 4. While keeping the objection open, we accept Ms. Vyas's request for an adjournment to enable her to obtain instructions on the matter."

5. Considering the submissions made on behalf of the Petitioners and on perusal of the impugned order dated 04th September 2024, we find substance in submissions advanced on behalf of the Petitioner that Respondent No.3 has not considered the case of the Petitioner in the reply filed by the Petitioner dated 29th August 2024, as also has not dealt with submissions made therein in passing a non-speaking order rendering the same liable to be set aside on the ground of non-application of mind.

6. In view of the aforesaid, we deem it appropriate to pass the following order which will meet the ends of justice :

ORDER

(i) Impugned order dated 04th September 2024 is hereby quashed and set aside;

(ii) Respondent No.3 is directed to give a fresh hearing to the Petitioner, after issuing a notice and pass a reasoned order, considering all the submissions of the Petitioners, as a de novo proceedings, as expeditiously as possible and preferably within a period of 6 weeks from the date this order is made available to Respondent No.3 by the Petitioner;

(iii) Let all parties be heard. All rights and contentions of the parties are expressly kept open;

(iv) Petition disposed of in the aforesaid terms. No costs.

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