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RAJESH
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11086 OF 2025

Pyramid Infratech Co

...Petitioner

Versus

The Union Of India Through the Secretary

...Respondents

Mr. Bharat Raichandani a/w. Ms. Bhagrati Sahu, i/b. UBR Legal Advocates,
for Petitioner.

Smt. S.D.Vyas Addl. G.P. a/w. Mr. A.R. Deolekar, AGP for Respondent -State.

Mr. Karan Adik a/w. Ms. Mamta Omle, for Respondent Nos. 3 & 4.

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

DATE: 23 APRIL 2026

ORDER (Per: Aarti Sathe, J):

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

a) that this Hon'ble Court be pleased to issue a Writ of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions quash and set aside the impugned order-in-appeal dated 30.09.2024 (Issued on 30.10.2024) (Exhibit "A"), passed by the Respondent No. 3.

b) that this Hon'ble Court be pleased to issue a Writ of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions quash and set aside the impugned order-in-original dated 30.09.2023 (Exhibit "B"), passed by the Respondent No. 4.

c) that this Hon'ble Court be pleased to issue a Writ of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions quash and set aside the show cause notice dated 09.11.2022 (Exhibit "F"), issued by the Respondent No.4.

d) that this Hon'ble Court be pleased to issue a Writ of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions hold that the petitioner has correctly transitional credit of Rs. 4,36,20,746/-.

e) that this Hon'ble Court be pleased to issue a Writ of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions hold that the proceedings initiated by the Respondent No. 3 & 4 vide impugned order-in-appeal dated 30.09.2024 (Issued on 30.10.2024) (Exhibit "A") and Impugned order-in-original dated 30.09.2023 (Exhibit "B"), are without jurisdiction and without authority of law, as the Respondent authorities cannot question the petitioner for the erstwhile laws and interpretate them on the basis of existing GST laws.

f) that this Hon'ble Court be pleased to issue a Writ of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions hold that the proceedings initiated by the Respondent No. 3 & 4 vide impugned order-in-appeal dated 30.09.2024 (Issued on 30.10.2024) (Exhibit "A") and impugned order-in-original dated 30.09.2023 (Exhibit "B"), are beyond jurisdiction and bad in law, as both the issues on the basis of which the Respondents are disallowing the transitional credit to the petitioner are settled vide order dated 09.4.2025, as the demand of the CENVAT Credit has been dropped, and the petitioner has paid the late fee as well;

g) that this Hon'ble Court be pleased to issue a Writ of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions hold that the delay in filing of ST-3, returns is just a procedural lapse, and substantive benefit of transitional credit cannot be denied on the basis on such procedural lapse.

h) that this Hon'ble Court be pleased to issue a Writ of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality of the provisions hold that the delay in filing ST-3 returns, cannot result in denying transition credit to the petitioner.

i) that this Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction ordering and directing the Respondent No. 3 & 4, by themselves, their subordinates, servants and agents, during the pending disposal of the present petition not to take coercive action based on impugned order-in-appeal dated 30.09.2024 (Issued on 30.10.2024) (Exhibit "A") and impugned order-in-original dated 30.09.2023 (Exhibit "B") and stay the same thereof;

2. Briefly the facts are as follows:-

i. The Petitioner is a partnership firm engaged, *inter alia*, in the business of construction of commercial and industrial buildings and civil structures. The Petitioner holds GST Registration No. 27AAMFP8951D1ZV. Prior to the introduction of the Goods and Services Tax (GST) regime, the Petitioner was duly registered with the Service Tax Department under Registration No. AAMFP8951DSD001.

ii. Upon introduction of the GST regime, the Petitioner filed Form GST TRAN-1 to carry forward its existing Central Value Added Tax (CENVAT) credit under Table 5(a), in accordance with the provisions of Section 140 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act). During the course of verification of Form GST TRAN-1 by the Respondent-Department, it was observed that the Petitioner had filed its ST-3 return for the period April 2017 to June 2017 on 15th October 2017, with a delay of 61 days. Subsequently, on 12th October 2021, a show-cause notice was issued to the Petitioner in respect of the Form GST TRAN-1 filed on 20th December 2017 under Rule 117 of the Central goods and Services Tax Rules, 2017 (hereinafter referred to as the CGST Rules), proposing to treat the credit amounting to Rs. 4,36,20,746/-, as reflected in the ST-3 returns, as inadmissible.

iii. Thereafter, without issuing any prior intimation or pre show-cause notice in Form GST DRC-01A, Respondent No. 4 issued a further show cause notice dated 9th November 2022 in Form GST DRC-01. By the said notice, the Petitioner was called upon to show cause as to why the alleged inadmissible TRAN-1 credit of Rs.

4,36,20,746/- should not be rejected and recovered under Section 74 of the CGST Act read with Rule 121 of the CGST Rules, along with applicable interest under Section 50 and penalty under Section 122(2)(b) of the CGST Act read with Rule 171 of the CGST Rules.

iv. On 9th December 2022, the Petitioner filed a detailed reply to the aforesaid show-cause notice, refuting all the allegations contained therein and placing on record documentary evidence in support of their submissions. The Petitioner specifically contended that the credit had been validly availed under the erstwhile regime and was lawfully carried forward in Form GST TRAN-1. However, without duly considering the submissions advanced by the Petitioner in its reply, as well as during the course of the personal hearing, Respondent No. 4 passed an Order-in-Original dated 30th September 2023, confirming the demand of alleged inadmissible TRAN-1 credit amounting to Rs. 4,36,20,746/- under Section 74 of the CGST Act, 2017, along with interest under Section 50 and penalty under Section 122(2)(b) of the CGST Act, 2017.

v. Being aggrieved by the said Order-in-Original dated 30th September 2023, the Petitioner preferred an appeal before the Appellate Authority, placing on record detailed submissions along with supporting documents. However, by an order dated 30th September 2024 (issued on 30th October 2024) the Appellate Authority, without properly appreciating or considering the submissions made by the Petitioner in the appeal as well as during the personal hearing, rejected the appeal and upheld the Order-in-Original dated 30th September 2023.

3. It is in the backdrop of the aforesaid facts that the Petitioner has filed the

present Petition.

4. Mr. Bharat Raichandani, along with Ms. Bhagrati Sahu, instructed by UBR Legal Advocates appeared on behalf of the Petitioner. Ms. Shruti D. Vyas, learned Addl, Government Pleader, along with Mr. A. R. Deolekar, learned AGP, appeared on behalf of Respondent No. 2 – State. Mr. Karan Adik, along with Ms. Mamta Omle, appeared on behalf of Respondent Nos. 3 and 4.

5. We have perused the papers and proceedings with the assistance of the learned counsel appearing for the parties, and proceed to decide the present Petition.

6. Learned counsel appearing on behalf of the Petitioner submitted that both the order-in-original dated 30th September 2023 and the order-in-appeal dated 30th September 2024 (issued on 30th October 2024) have been passed without due consideration of the submissions advanced by the Petitioner. It was submitted that the sole ground on which the transitional credit has been denied is that the service tax paid by the Petitioner to City and Industrial Development Corporation of Maharashtra Limited (CIDCO) towards lease of land allegedly has not been substantiated by documentary evidence to establish that such service tax was paid either by the Petitioner, or deposited by CIDCO with the Government treasury.

7. It is further submitted that the Appellate Authority while passing the order in appeal dated 30th September 2024 (issued on 30th October 2024) has proceeded on an erroneous basis, inasmuch as the Petitioner had placed on record a certificate dated 30th November 2021 issued by CIDCO (Exhibit “M” to the

Petition), wherein CIDCO has categorically confirmed that the service tax collected in respect of the transaction entered into with the Petitioner has been duly deposited into the Government treasury, along with the relevant particulars. Additionally, a receipt issued by CIDCO (Exhibit “L” to the Petition), acknowledging payment of service tax by the Petitioner, was also produced before the Appellate Authority.

8. Learned counsel for the Petitioner submitted that the aforesaid documents have not been considered at all by the authorities, and on that basis alone, the claim for GST TRAN-1 credit has been erroneously denied. The relevant findings recorded in the Order-in-Appeal dated 30th September 2024 (issued on 30th October 2024) are reproduced hereinbelow:

v. Appellant have contended that they have submitted the documents of the service tax amount paid to CIDCO Ltd who too have confirmed and issued a certificate to that effect. But they neither before the adjudicating authority nor in the present proceedings submitted any documents justifying that even CIDCO Ltd has deposited the said service tax amount to the Government exchequer. It has been the intention of the legislature since the introduction of the credit facility (during Central Excise, it was MODVAT later CENVAT which continues till Service Tax regime) and still continuing in GST period that tax paid on the input and input services received by the taxpayers are available in the form of input or input tax credit as a set off but with the rider that the appellant should have followed the applicable provisions while availing the said credit as well as the supplier of the said input or input services should also have paid the applicable tax of which the credit is availed by the taxpayers. I find that it has never been the intention of the legislature to give away the input credit to the appellant without their vendors having paid the applicable government tax on the supply made by them.

9. In view of the aforesaid, learned counsel appearing on behalf of the Petitioner submitted that the order-in-appeal dated 30th September 2024 (issued on 30th October 2024) passed by the Appellate Authority is liable to be quashed

and set aside. It was further submitted that the matter be remanded to the appropriate authority by granting the Petitioner a fresh opportunity to place on record all relevant documents, in particular, the proof evidencing payment of service tax by CIDCO into the Government treasury. Such material, it is contended, would clearly demonstrate that the service tax paid by the Petitioner to CIDCO has neither been retained by the Petitioner, nor by CIDCO.

10. *Per contra*, learned counsel appearing on behalf of the Respondents opposed the reliefs sought for in the present Petition. It was submitted that the Petitioner had filed its service tax returns belatedly, and therefore, the provisions of Section 140 of the CGST Act were rightly invoked to deny the benefit of GST TRAN-1 credit. It is further contended that, in view of the delay in filing the returns, the denial of credit is justified and does not warrant interference.

11. Having heard the learned counsel for the parties, we find considerable substance in the submissions advanced on behalf of the Petitioner. It is evident that the order-in-appeal dated 30th September 2024 (issued on 30th October 2024) has been passed without due consideration of the submissions made by the Petitioner, particularly the documentary evidence placed on record which includes the certificate issued by CIDCO, which categorically certifies that the service tax collected from the Petitioner in respect of the lease of land has been duly deposited into the Government treasury. In view of such categorical material on record, the impugned order reflects clear non-application of mind, and is therefore liable to be quashed and set aside.

12. In light of the aforesaid discussion, we are inclined to pass the following order, which, in our view, would meet the ends of justice:

ORDER

- i. The impugned Order-in-Appeal dated 30th September 2024 (issued on 30th October 2024) and the Order-in-Original dated 30th September 2023 are quashed and set aside.
- ii. A reasoned and speaking order shall be passed by the Respondents/Appellate Authority after granting a personal hearing to the Petitioner in accordance with law, as expeditiously as possible, and preferably within a period of three months from the date on which this order is made available to such authority by the Petitioner.
- iii. The proceedings are remanded for *de novo* consideration to the Appellate authority.
- iv. All contentions of the parties are expressly kept open.
- v. The Petition is disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)