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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15874 OF 2025

Varian Medical Systems International India Pvt. Ltd. ...Petitioner
Versus
Union of India & Ors. ...Respondents

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

Ms. Shruti D. Vyas, Addl.G.P. a/w Aditya R. Deolekar, AGP for Respondent-State.

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

DATE: 29 APRIL 2026

P.C.

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 set aside and quash the impugned order dated 27.06.2025 (Exhibit "A") as being passed without jurisdiction and authority of law;

b) that this Hon'ble Court be pleased to issue a Writ of Certiorari or Mandamus 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 thereof, hold that the impugned order dated 27.06.2025 (Exhibit "A") has been passed in complete violation of principles of judicial discipline.

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 hold that the

petitioner is eligible for refund amounting to Rs.12,12,00,656/- (IGST) and direct the Respondent No. 3 to process the same;

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 cases going into the validity and legality of the provisions hold that the petitioner is entitled to interest on delayed refund at applicable rate;

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 direct the Respondent No. 3 to grant the interest on delayed refund as per Section 56 of the CGST Act, 2017;"

2. Briefly, the facts are as follows:-

i. The Petitioner is a private limited company, *inter alia* engaged in the business of providing software development and related services to its associated enterprises located outside India. The Petitioner is also registered with Software Technology Park of India (STPI) for the software export operation, and the Petitioner provides software development and related services without payment of tax under Letter of Undertaking (LUT).

ii. Before 2017, the aforesaid software services were provided by Varian Medical Systems India Software Private Limited. However, in the year 2017, the said company was merged into the Petitioner company, i.e., Varian Medical Systems International (India) Software Private Limited, through the scheme of amalgamation, and consequently, an order giving effect to the amalgamation was passed by the National Company Law Tribunal dated 20th December 2017.

- iii. During the period May 2023 to January 2024 (relevant period), the Petitioner entered into agreements with various entities for providing software development and related services. The Petitioner raised the invoices along with Foreign Inward Remittance Certificates (FIRCs) on account of the software development services to the aforesaid entities during the relevant period.
- iv. On 30th April 2025, the Petitioner filed a refund application claiming an amount to Rs. 12,12,00,656/- as refund under the provisions of Section 20 of the Integrated Goods and Services Act, 2017 (IGST Act), read with Section 54(3) of the Central Goods and Services Tax Act, 2017 (CGST Act), read with Rule 89(4) of the Central Goods and Services Tax Rules, 2017 (CGST Rules) for the relevant period on account of export of services without payment of tax under LUT vide ARN No. AA2704251931181.
- v. On 30th May 2025, Respondent No. 3 issued a show-cause notice vide Form GST RFD-08, calling upon the Petitioner to show case as to why refund claim amount of Rs. 12,12,00,656/- should not be rejected for the reasons as mentioned in the aforesaid show-cause notice.
- vi. On 10th June 2025, the Petitioner, in response to the aforesaid show-cause notice vide Form GST RFD-09 filed a reply refuting all the allegations contained therein, and also filed requisite documents in support of their submissions claiming the refund. On 11th June 2025, a personal hearing was accorded to the Petitioner, wherein the Petitioner made submissions through its authorized representative and also submitted a copy of the reply to the aforesaid show-cause notice. However,

Respondent No. 3, without considering the submissions made by the Petitioner, passed the order dated 27th June 2025 (impugned order), rejecting the claim application filed by the Petitioner under Section 54(3) of the CGST Act read with Section 20 of the IGST Act, seeking to recover the aforesaid refund on the ground that the same were erroneously granted to the Petitioner.

3. It is in the backdrop of the above facts that the Petitioner, being aggrieved by the impugned order rejecting the refund claim, has filed the present Petition.

4. Mr. Bharat Raichandani, along with Ms. Bhagrati Sahu, instructed by UBR Legal Advocates appeared for the Petitioner, and Ms. Shruti D. Vyas, Addl.G.P., along with Aditya R. Deolekar, AGP appeared for the Respondent-State.

5. Heard learned Counsel for the parties. We have perused the papers and proceedings with the assistance of the learned Counsel for the parties.

6. It is the contention of Mr. Raichandani, learned Counsel for the Petitioner, that the impugned order has been passed in violation of the principles of natural justice, inasmuch as the impugned order failed to consider the submissions and documents submitted by the Petitioner and arbitrarily rejected the refund claim made by the Petitioner. He submitted that the impugned order erroneously held that the Petitioner was providing intermediary services, and failed to appreciate that the Petitioner was not a broker or an agent of any of the foreign

entities to whom they were rendering services, and further that the Petitioner was not arranging or facilitating the supply of services between two or more persons.

7. Learned Counsel for the Petitioner further submitted that there was not a principal-agent relationship between the Petitioner and the foreign entities, and that they were providing services to the foreign entities on principal-to-principal basis. In view thereof, he submitted that the Petitioner was providing services which were covered as export of services under Section 2(6) of the IGST Act, and therefore the services provided by the Petitioner would qualify as export of services, as recipients of the services were located outside India and the supplier of services was located in India, pursuant to which the Petitioner was eligible for refund of accumulated Input Tax Credit (ITC) in terms of Section 16 of the IGST Act, read with Section 24(3) of the CGST Act. He therefore submitted that since all these crucial facts and submissions were not considered by Respondent No. 3 prior to the passing of the impugned order, the same would render it a non-speaking order. He therefore submitted that in view of the fact that the impugned order is based on a non-application of mind and was not a reasoned and speaking order, the consequent rejection of the refund as claimed by the Petitioner is also bad in law, and hence a fresh hearing needed to be accorded to the Petitioner, wherein the Petitioner's refund claim would be required to be adjudicated afresh. He further submitted that this Court, in a series of decisions, which were based on similar facts and circumstances, and where impugned orders were passed without considering the submissions made by the Assessee, has remanded the matter back to the Adjudicating Authority for *de novo* consideration, referring particularly to the

decision rendered by the Co-ordinate Bench of this Court in the case of **Sundyne Pumps and Compressors India Pvt. Ltd. vs. Union of India**¹. Mr. Raichandani further sought to place reliance on the following decisions :

I. Lubrizol Advance materials India Ltd. Vs Union of India and others (Writ Petition No.987 of 2026);

II. Vistex Asia Pacific Private Limited Vs. Union of India and others (Writ Petition No.4852 of 2022);

III. V.Ships India Pvt.Ltd. Vs. Union of India and others (Writ Petition No.1534 of 2025);

IV. Magna Automotive India Private Limited Vs Union of India and others (Writ Petition No.6501 of 2024).

8. *Per contra*, Ms. Vyas, learned Addl. G.P. has fairly submitted that the proceedings could be remanded to the original/Adjudicating Authority to consider the contentions as raised by the Petitioner, and a fresh hearing could be accorded to the Petitioner in *de novo* proceedings.

9. Having heard the learned counsel for the parties, and considering that a consistent view has been taken by this Court in the orders referred to by the learned counsel for the Petitioner as enumerated above, we find substance in the contention as urged on behalf of the Petitioner. We find that no specific finding has been recorded in the impugned order before rejecting the refund application as claimed by the Petitioner, and therefore a reasoned and speaking order is required to be passed by Respondent No. 3 prior to the rejection of refund. The impugned order, therefore, suffers from the vice of being a non-speaking order vis-a-vis the rejection of the refund claim of the Petitioner. Further, we are also of the view that

¹2025-SCC OnLine-Bom-2372

the impugned order, without considering the submissions of the Petitioner, has erroneously held that the Petitioner is an intermediary service provider and has therefore rejected the claim of the Petitioner that the service rendered by them is an export of services and hence has rejected the refund claim as made by the Petitioner.

10. In light of the aforesaid discussion, we are inclined to pass the following order which will meet the ends of justice:

ORDER

- (i) The impugned order dated 27th June 2025 is quashed and set aside;
- (ii) The Original/Adjudicating Authority to issue a show-cause notice to the Petitioner within a period of two weeks from the date this order is made available to the Original/Adjudicating Authority by the Petitioner. Post issuance of the show-cause notice, a personal hearing be granted to the Petitioner within a period of two weeks. The proceedings stand remanded to the Original/Adjudicating Authority for *de novo* consideration to consider the refund claim of the Petitioner, and for a fresh and reasoned order to be passed in accordance with law.
- (iii) The Original/Adjudicating Authority shall complete the determination within a period of three months from the date of this order;
- (v) All contentions of the parties are expressly kept open;
- (vi) The petition stands disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)