



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 1534 OF 2025
WITH
WRIT PETITION (L) NO. 12279 OF 2025
WITH
WRIT PETITION NO. 1934 OF 2025
WITH
WRIT PETITION NO. 1931 OF 2025
WITH
WRIT PETITION (L) NO. 12348 OF 2025
WITH
WRIT PETITION NO. 1929 OF 2024
WITH
WRIT PETITION NO. 1924 OF 2025
WITH
WRIT PETITION NO. 3640 OF 2025
WITH
WRIT PETITION NO. 2038 OF 2025
WITH
WRIT PETITION NO. 1925 OF 2025
WITH
WRIT PETITION NO. 1765 OF 2025

V Ships India Pvt. Ltd.

...Petitioner

Vs

Union of India & Ors.

...Respondents

Mr. Bharat Raichandani a/w. Mr. Bhagrati Sahu i/b. UBR Legal Advocates for the petitioner in all the petitions.

Ms. Jyoti Chavan, Addl. G.P. for respondent nos. 2, 3 and 4/State in WP/1534/2025, WP/1765/2025, WP/1924/2025 and WP/2038/2025.

Mr. Himanshu Takke, AGP for respondent nos. 2, 3 and 4/State in WP/1934/2025, WPL/12279/2025, WPL/12348/2025 and WP/3640/2025.

Mr. Amar Mishra, AGP for respondent nos. 2, 3 and 4/State in WP/1931/2025, WP/1925/2025 and WP/1929/2025.

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

DATE: 01 APRIL 2026.

P.C.

1. This batch of petitions raises common issues of law and facts, hence they

are being disposed of by this common order. For convenience, we refer to the facts of the lead petition.

2. The case of the petitioner is that it is engaged in the business of providing ship management services, as also is engaged in the export of such services. An agreement dated 15 January, 2013 was entered by the petitioner with one V. Group Manpower Services (VGMS) situated at 63, Queen Victoria Street, London, United Kingdom to provide Ship management services. A copy of the agreement is annexed to the Paper Book at Exhibit 'C'. Although these petitions concern different periods, we need not delve on the specific periods, suffice it to observe that it is the petitioner's case that prior to the introduction of the GST laws, qua the Ship management services provided under similar agreements, the petitioner's applications for refund of service tax paid by the petitioner on such "export of services", were favourably considered and the petitioner was granted refund under the service tax provisions, on satisfying of the relevant conditions under Rule 6A of the Service Tax Rules, prevailing at the relevant time.

3. The dispute in the present proceedings also has arisen qua the similar transactions in regard to which IGST was paid by the petitioner, under the present regime of GST, being brought into effect from 1 April, 2017. Pertinently, the agreement in question qua the payment of the IGST and a claim for refund is the very agreement dated 15 January, 2013 whereunder the petitioner is providing "export of services" to VGMS, for the different periods. The relevant period subject matter of the present proceedings is from January, 2022 to June, 2023.

For convenience, the relevant periods (Writ Petition wise) have been set out by the petitioner in the chart, which are required to be noted, which read thus:

Sr. No.	Listing Sr. No.	Writ Petition	Period	OIO/RFD-06 date	OIA No. & Date
1	17	WP(L) No. 12436 of 2025	Jan. 2022 to Mar.2022	02.11.2022	The Writ Petitions at Sr. No. 1 to 6, in this table, challenges the common Order-in-Appeal in Form GST APL 04 bearing No. JC/App-VI/GST-264/22-23/24-25/ 27 dated 30.01.2025
2	16	WP(L) No. 12330 of 2025	July 2021 to Sept. 2021	30.08.2022	
3	15	WP(L) No. 12339 of 2025	June 2021	30.08.2022	
4	12	WP(L) No. 12352 of 2025	Oct. 2021 to Dec. 2021	30.08.2022	
5	10	WP(L) No. 12297 of 2025	April 2021	19.07.2022	
6	45	WP(L) No. 12406 of 2025	May 2021	12.08.2022	
7	13	WP(L) No. 13772 of 2025	October 2022 to Dec. 2022	28.08.2023	The Writ Petitions at Sr. Nos. 7 to 11, in this table, challenges the common Order-in-Appeal in Form GST APL 04 bearing No. JC/App-VI/GST-105/23-24/24-25/- 22 pg. 4, Mumbai dated 30.01.2025
8	42	WP(L) No. 12348 of 2025	January 2023	22.08.2023	
9	40	WP(L) No. 12297 of 2025	February 2023	22.08.2023	
10	11	WP(L) No. 14036 of 2025	March 2023	05.03.2024	
11	14	WP(L) No. 12350 of 2025	April 2023 to June 2023	09.07.2024	

4. It is the petitioner's case that in respect of export of services as rendered by the petitioner to VGMS, the petitioner has become entitled for refund of the IGST as deposited by the petitioner, on the applicability of Section 16 of the IGST Act, 2017. Accordingly, the petitioner filed refund application in Form RTD-01. The department issued notice in RFD 08 to the petitioner to show cause as to why refund claim of the petitioner should not be rejected, on the ground that the services to VGMS were provided on principal-agent basis and not on principal to principal basis. The designated officer also asserted that the said

services be termed as an “intermediary services”, hence will not qualify as an “export of services” under section 2(6) of the IGST Act.

5. The petitioner filed its reply to the show cause notice. The adjudicating authority has passed an order rejecting the refund application of the petitioner for all such periods, the details of which are set out in the aforesaid chart. The petitioner assailed the orders passed by the adjudicating authority before the Appellate Authority in separate appeals. The Appellate Authority by the impugned order has rejected the petitioner’s appeals. It is in these circumstances, the present petitions are filed.

6. At the outset, Mr. Raichandani, learned counsel for the petitioner would submit that the petitioner’s case was based purely on the agreement dated 15 January, 2013 where the export of service in question was the issue for the period in question. He submitted that as to what is the effect of the terms and conditions of Agreement dated 15 January, 2013 under which the petitioner is exporting services has not been considered in the impugned order passed by the Appellate Authority. He submitted that in fact there is no discussion, whatsoever, on such entitlement of the petitioner, which was very much recognized under the regime prior to the GST regime under the Service Tax Rules which prevailed at the relevant time. It is hence submitted that the provisions of IGST are required to be applied in the context of the agreement in question and on verification of the nature of the transaction by recording a finding as to whether the transactions in question were in fact the transactions of export of services so as to attract the

provisions of Section 16 of the IGST Act, namely, the supplies are zero rated supplies, thereby the petitioner becoming entitled for refund.

7. Having heard learned counsel for the parties and having perused the record and the impugned order, we find substance in the contention as urged on behalf of the petitioner. We find that no finding is recorded in the impugned order, in regard to the terms of the agreement in the context of the nature of services as provided by the petitioner in regard to which the petitioner filed its refund application. The learned counsel for the petitioner would also be correct in the contention that the petitioner would stand assisted by the decision of this Court in **Sundyne Pumps and Compressors India Pvt. Ltd. vs. Union of India**¹ and **Magna Automotive India Pvt. Ltd. vs. Union of India & Ors.**² wherein the facts before the Court were similar. Mr. Raichandani has also drawn our attention to the orders passed by the co-ordinate Bench of this Court in **K.C.. Overseas Education Pvt. Ltd., Nagpur vs. The Union of India & Ors.**³, wherein in similar circumstances the Court allowed the Writ Petition. Against such orders, the Supreme Court rejected a Special Leave to Appeal (C) Nos. 21104-21105/2025 filed by the department by an order dated 25 August, 2025, a copy of which is also placed on record. Our attention is also drawn by Mr. Raichandani to the decision of this Bench in **Vistex Asia Pacific Pvt. Ltd. vs. Union of India & Ors.**⁴ wherein in similar circumstances considering the nature of the clauses in the agreement and the decision of this Court in **Sundyne Pumps**

1 Writ Petition No. 15228 of 2023

2 Writ Petition No. 14325 of 2024

3 Writ Petition No. 3914 of 2024 decided on 3 March, 2025.

4 Writ Petition No. 4852 of 2022 decided on 6 January, 2026

and **Compressors India Pvt. Ltd.** (*supra*), this Court allowed the petition, whereby the order as impugned therein, of rejecting the refund, as upheld by the Appellate Authority, was quashed and set aside and the proceedings were remanded to the Appellate Authority .

8. Also, **Lubrizol Advance Materials India Pvt. Ltd. vs. Union of India & Ors.**⁵, was a similar case which had fell for consideration of this Bench in which orders similar to the orders in **Vistex Asia Pacific Pvt. Ltd.** (*supra*) were passed by this Court. The relevant observations in that regard are required to be noted:

“6. Having heard learned Counsel for the parties and having perused the record, we are of the opinion that considering the nature of the impugned order as passed by Respondent No.2, the same is required to be reconsidered by Respondent No.2 in the context of a due consideration to the Petitioner’s contention qua the arrangements between the parties in agreement(s) in question. In the case of **Vistex Asia Pacific Pvt. Ltd. Vs. Union of India**, this Bench had made the following observations:-

“15. Mr. Raichandani has also placed reliance on the circular dated 20 September 2021, which, in the context of ‘export of services’, was also referred in paragraph 30 of the order passed by the Division Bench of this Court. He also refers to a Circular of even date issued by the Central Board of Indirect Taxes and Customs in the context of “clarification on doubts related to scope of intermediary and scope of intermediary services”, and more particularly, as to what has been set out in paragraph 3 and its sub-paragraphs i.e. paragraphs 3.1 to 3.6 thereof. Mr. Raichandani has also drawn our attention to the specific case made out by the petitioner before the appellate authority, not only in the context of the purport of the said circular vis-a-vis the relevant provisions of the IGST Act and the CGST Act, but also to the contentions as urged by the petitioner in its appeal, wherein he submits that it was categorically contended that the petitioner was not engaged in marketing / consultation and implementation services (paragraph 2.4.2 of the memo of appeal) and the other grounds raised therein.

16. Having heard learned counsel for the parties and having perused the record, the circular(s) dated 20 September 2021 (*supra*), the impugned order, and the decision of the Division Bench of this Court in **Sundyne Pumps and Compressors India Pvt. Ltd.** (*supra*) as noted hereinabove, we are of the considered opinion that, although the appellate authority has taken into consideration certain clauses of the agreement, in the light of what has been held by this Court in **Sundyne Pumps and Compressors**

India Pvt. Ltd. (supra) and qua the applicability of the said circular(s) to the service agreement in question, the matter would require an appropriate examination by the appellate authority on all the points urged on behalf of the petitioner and the specific findings recorded.

17. In this view of the matter, keeping open all contentions of the parties, some of which we have discussed hereinabove, we are of the clear opinion that it would be in the interest of justice to remand the proceedings to the appellate authority for de novo consideration of the department's appeal, as allowed by the impugned order dated 22 February 2022. Hence, the following order:-

ORDER

- i. The impugned order dated 22 February 2022 is quashed and set aside.
- ii. The proceedings are remanded to the appellate authority (Joint Commissioner, CGST & CX, Appeals-I, Mumbai) for de novo consideration and for a fresh order to be passed in accordance with law, after hearing the parties.
- iii. The appellate authority shall complete the appropriate determination within a period of three months from today.
- iv. All contentions of the parties are expressly kept open.
- v. Rule is made absolute in the aforesaid terms. No costs."

8. In this view of the matter, we are inclined to pass the following order:-

ORDER

- a. The impugned order dated 19th November 2025 is quashed and set aside.
- b. The proceedings stand remanded to Respondent No.2 for a de novo consideration and for a fresh order to be passed in accordance with law, after hearing the parties.
- c. The appellate authority shall complete the determination within a period of three months from today.
- d. All contentions of the parties are expressly kept open.
- e. The Petition is disposed of in the aforesaid terms. No costs."

9. In the aforesaid circumstances, we are in agreement with Mr. Raichandani that the petitioner would be similarly situated as in the aforesaid cases as discussed hereinabove.

10. Ms. Chavan, learned Additional Government Pleader although has opposed these petitions, would also not disagree that the authority could have made appropriate observations, on consideration of the petitioner's case, by taking into consideration the agreement dated 15 January, 2013, which was the primary contention of the petitioner.

11. In the light of the aforesaid discussion, in our considered opinion, it is in the interest of justice that these petitions be disposed of in terms of the following order:

ORDER

(i) The impugned orders passed by the Appellate Authority in each of these petitions are quashed and set aside.

(ii) The proceedings stand remanded to the Appellate Authority for a de novo consideration and for a fresh order to be passed in accordance with law after hearing the parties.

(iii) The Appellate Authority shall complete the determination within a period of three months from the date the copy of this order is made available.

(iv) All contentions of the parties are expressly kept open.

12. The petitions stand disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)