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JYOTI RAJESH
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 4543 OF 2025

Interactive Brokers Software Services

Private Limited

...Petitioner

Versus

Union of India & Ors.

...Respondents

Mr. Bharat Raichandani a/w Mr. Suraj Ghadigaonkar, for Petitioner.

Mr. Himanshu Takke, AGP for Respondent-State.

Ms. Shruti Vyas a/w. Ms. Niyati Mankad a/w. Ms. Priyanka Singh, for
Respondent No.3 & 4.

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

DATE: 16 APRIL 2026

P.C.

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

(a) that this Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature 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 thereof, quash and set aside impugned order dated 27.03.2025 (Exhibit A) passed by the Respondent No. 3, being passed without jurisdiction and without authority of law;

(b) that this Hon'ble Court be pleased to issue a Writ of Declaration or a writ in the nature of Declaration 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 and declare that the petitioner is eligible for refund;

(c) that this Hon'ble Court be pleased to issue a Writ of Declaration or a writ in the nature of Declaration 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 and declare that the petitioner is eligible for interest at the rate of 18% on delayed refund

(d) that this Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature 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 thereof, quash and set aside circular no. 125/44/2019-GST dated 18.11.2019 as being ultra vires of the provisions of the parent act i.e. section 16 and section 54 of the CGST Act;

(e) that this Hon'ble COURT be pleased to issue a Writ of Declaration or a writ in the nature of Declaration 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 and declare that circular cannot override the provision of the parent act i.e. section 16 and section 54 of the CGST Act;

2 The grievance of the Petitioner is that the refund application filed by the Petitioner has been rejected by the impugned Order dated 27th March 2025, which, according to the Petitioner, warrants interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. It is contended that the said Order has been passed without application of mind and in complete disregard of the documents submitted by the Petitioner, particularly the Foreign Inward Remittance Certificate (FIRC)/GST Invoice (Exhibit "M") issued by HDFC Bank.

3. From the record, we find that while rejecting the refund application, the designated officer has observed that the Petitioner failed to produce the Bank Realisation Certificate in respect of Invoice No. SA/2019-20/05 dated 9th April 2020, despite sufficient opportunity being granted. However, it is the case of the Petitioner that the said documents were, in fact, duly submitted, and specific averments to that effect have been made in paragraph 1.9 of the Petition, which reads thus:

:

1.9 The Respondent No. 3, while denying the refund, has completely ignored the FIRC submitted and failed to appreciate that the Petitioner had already complied with the requirements under the applicable provision of the Circular. Copy of FIRC submitted by the Petitioner for the disputed period and the copy of export invoices adjusted against those remittances are annexed hereto and marked as Exhibit "M". This clearly depicts that the Petitioner has duly received the remittances against the export invoices.

4. In the aforesaid facts and circumstances, we are of the view that no prejudice would be caused to the Department if the issue is re-examined and all the documents submitted by the Petitioner in support of the refund claim are duly considered. We are, therefore, inclined to dispose of the present Petition in terms of the following order:

ORDER

- i) The impugned Order dated 27th May 2025 rejecting the Petitioner's refund application is quashed and set aside.
- ii) The proceedings are remanded to the Assistant Commissioner, Division-V, for de novo consideration in accordance with law. The said authority shall pass a reasoned order after taking into consideration all the documents placed on record and after granting an opportunity of hearing to the Petitioner.
- iii) All contentions of the parties are expressly kept open.
- iv) The Petition is disposed of in the above terms. No costs.
- v) The aforesaid exercise shall be completed within a period of three months from the date of this Order.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)