

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

WRIT PETITION NO. 987 OF 2026

Lubrizol Advance Materials India Pvt. Ltd.

...Petitioner

Versus

Union of India & Ors.

...Respondents

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

Ms. Jyoti Chavan, Addl.G.P. a/w Himanshu Takke, AGP for Respondent-State.

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

DATE: 4TH MARCH 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 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 in Form GST RFD 06 dated 19.11.2025 (Exhibit "A") and show cause notice dated 15.10.2025 (Exhibit "F") passed by Respondent no. 2;

(b) that this Hon'ble Court be pleased to issue a Writ of certiorari/ Declaration or any other appropriate Writ/order/direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner case and after going through the facts of the Petitioner's case hold and declare that the services supplied by the Petitioner to the overseas group companies located outside India is an "export of service";

(c) that this Hon'ble Court be pleased to issue a Writ of certiorari/ Declaration or any other appropriate Writ/order/ direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner case and after going through the facts of the Petitioner's * case hold and declare that the Petitioner is not an

agent of overseas group companies located outside India and therefore, not providing any agency services thereof;

(d) that this Hon'ble Court be pleased to issue a Writ of certiorari/ mandamus or any other appropriate Writ/order/ direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner case and after going through the facts of the Petitioner's case hold and declare that the Petitioner is entitled to refund on account of export of services amounting for the period July 2024;

(e) that this Hon'ble Court be pleased to issue a writ of Issue a writ of mandamus or any other appropriate writ, order or direction ordering and directing the Respondent No. 2 to forthwith sanction and grant the refund of IGST paid on export of services amounting to Rs. 56,11,885/- (IGST) and direct the Respondent No. 2, to process the same for the period July 2024 along with interest at the rate of 18 per cent per annum forthwith;

(f) 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-in-original dated 17.11.2025 (Exhibit "A"), and show cause notice dated 13.10.2025 (Exhibit "F"), has been passed in violation of Section 54(6) of the CGST Act, 2017, as ninety percent of the claim of refund ought to have been granted to the Petitioner;"

2. It is the Petitioner's case that it forms a part of the global Lubrizol Group of companies, dealing with wide spectrum of vehicular requirements, including enhancement of energy efficiency, reduction of emissions, and improvement of reliability and durability of engines used in internal combustion as well as electric and hybrid vehicles. The Petitioner entered into agreements with its group companies situated outside India. The Petitioner has contended that as per service tax regime, the CESTAT, Mumbai in the Petitioner's own case, held that the administrative and sales related support services provided to overseas group entities were rendered on principal to principal basis, that the Petitioner was not acting as

an intermediary, and that the services qualified as export of services. The said order has attained finality. It is the Petitioner's case that under the GST Regime, the Petitioner continued to provide identical services to overseas group entities under similar contractual arrangements for consideration on cost-plus markup basis, received in convertible foreign exchange.

3. On 4th September 2025, the Petitioner filed a refund application in Form GST RFD-01 vide ARN No. AA2709250148018 claiming refund of IGST amounting to Rs. 56,11,885/- for the period July 2024. It is the Petitioner's contention that Respondent No.2 without issuance of any deficiency memo, issued a show cause notice dated 15th October 2025, on the refund application, as filed by the Petitioner proposing rejection of the refund on the ground that services were intermediary services and therefore not export of services. The Petitioner in response to the show cause notice by its letter dated 17th October 2025 sought an extension of time to file a reply to the show cause notice and appear for a personal hearing. A personal hearing was accorded to the Petitioner on 14th November 2025.

4. The case of the Petitioner is that however, the contentions as urged on behalf of the Petitioner were not considered when the impugned order dated 19th November 2025 came be passed rejecting the refund claim of Rs. 56,11,885/- for July 2024 on the ground that the Petitioner is an intermediary and the services do not qualify as export of services. The Petitioner has raised several contentions to assail the impugned order dated 19th November 2025, passed by Respondent No.2

including contention on the breach of the principles of natural justice as also non application of mind.

5. Mr. Raichandani, learned Counsel for the Petitioner, in support of his submission, has drawn our attention to the provisions of the IGST Act as also CGST Act. He submits that the contentions as urged on behalf of the Petitioner and more particularly the nature of the agreement as entered into between the Petitioner and its group entities vis-a-vis the applicability of the provisions of Section 13(8) of the IGST Act, certainly required appropriate consideration at the hands of the authority passing the impugned order. He submitted that in a case similar to the present case in **Vistex Asia Pacific Pvt. Ltd. Vs. Union of India**, this Bench had set aside the order impugned in the said proceedings and the proceedings were remanded back to the appellate authority for *de novo* consideration of the department's appeal, more particularly referring to the decision rendered by a co-ordinate Bench of this Court in the case of **Sundyne Pumps and Compressors India Pvt. Ltd. Vs. The Union of India**.

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.”

7. Ms. Chavan, learned Addl.G.P. has although supported the impugned order would fairly submit that the Court may remand the proceedings to Respondent No.2 for a fresh decision.

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.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)