HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE SIXTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT PETITION NO: 307 OF 2025

Between:

M/s.Granules India Limited, 21- Floor, 3rd Block My Home Hub, Madhapur, Rangareddy. Telangana - 400 081.

represented by its Vice President (Commercial) Mr.J.Sathyanarayana

...PETITIONER

AND

1. The Assistant Commissioner of Customs, Export Promotion Division, 5th Floor, Jade Arcade, H.N.1-7-284-293, Flat No 505-508 M.G. Road, Paradise circle, Secunderabad - 500003.
2. The Principal Commissioner of Customs, Hyderabad GST and Customs Commissionerate GST Bhawan, Opp:LB Stadium Road, Basheerbagh Hyderabad-500004.
3. Union of India, Represented by its Secretary to the Government Department of Revenue Ministry of Finance, New Delhi 110001

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order, or direction particularly one in the nature of a Writ of Mandamus or any other appropriate writ (i) declaring the OIO No.71/2024-25 (Refunds), dated 30/10/2024 passed by Respondent as being erroneous, illegal, arbitrary, passed in violation of principles of natural justice, violative of Article 14 and 19(g) of the Constitution of India, (ii) set aside the Show Cause Notice No.08/2020-2021(EPD) dated 12/02/2021 issued by the Respondent No.1 dated 12/02/2021(iii) direct the Respondent No.1 to grant the refund of Rs.1,03,17,584/-

along with applicable interest, which is to be calculated from the date of refund application in the interest of justice, equity and good conscience.

Counsel for the Petitioner: SRI KARAN TALWAR

Counsel for the Respondent Nos.1 and 2: SRI DOMINIC FERNANDES (senior standing counsel for CBIC)

Counsel for the Respondent No.3: SRI PULIMAMIDI SHASHIDHAR REDDY/ SRI GADI PRAVEEN KUMAR, DEPUTY SOLICITOR GENERAL OF INDIA

The Court made the following: ORDER

THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL

AND

THE HON'BLE SMT. JUSTICE RENUKA YARA

WRIT PETITION No.307 of 2025

ORDER: *(Per the Hon'ble the Acting Chief Justice Sujoy Paul)*

Sri Karan Talwar, learned counsel for the petitioner and Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, for respondents No.1 and 2.

2. With the consent, finally heard.

3. This writ petition is directed against the order, dated 30.10.2024, passed by respondent No.1 in Order-in-Original No.71/2024-25 (Refunds).

4. The bone of contention of the learned counsel for the petitioner is that the claim of the petitioner for refund is turned down by the impugned order dated 30.10.2024. Learned counsel for the petitioner highlighted the events and urged that the petitioner's 12 refund applications were adjudicated *ex parte* by a single communication dated 08.08.2019 by respondent No.1 thereby rejecting the applications for refund of countervailing duty

and special additional duty available as Central Value Added Tax (CENVAT) Credit under Section 142(3) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as, "the CGST Act"). The petitioner filed an appeal before the Commissioner (Appeals-I), Hyderabad, and the said authority, by an order dated 13.01.2021, set aside the *ex parte* decision taken vide communication dated 08.08.2019.

5. In turn, respondent No.1 passed a fresh order, dated 17.08.2020, in Order-in-Original (*De novo*) No.05/2020-21.Ref.EPD, rejecting the refund claims. The petitioner again preferred an appeal before the Principal Commissioner of Customs & Central Excise (Appeals-I), Hyderabad, which was decided by an order dated 15.01.2021 thereby giving stamp of approval to the Order-in-Original dated 17.08.2020.

6. Dissatisfied with the appellate order, the petitioner preferred Customs Appeal No.30323 of 2021 before the Customs, Excise and Service Tax Appellate Tribunal (CESTAT), Hyderabad, which was decided on 20.02.2024. The petitioner was held to be entitled for refund under Section 142(3) of the CGST Act and the

adjudicating authority was directed to grant the refund within 45 days.

7. The department preferred the Central Excise Appeal, namely CEA No.26 of 2024, before this Court against the order dated 20.02.2024 passed by the CESTAT.

8. On 03.10.2024, the order of the CESTAT was implemented and refund was sanctioned. In the meantime, a show cause notice dated 12.02.2021 was issued to the petitioner by the Deputy Commissioner of Customs, Export Promotion Division, Hyderabad, to show cause as to why the refund claims of the petitioner should not be rejected. The petitioner filed a reply on 10.10.2024 and placed heavy reliance on the order of CESTAT dated 20.02.2024 mentioned hereinabove and also the sanction order dated 03.10.2024. By passing the impugned order dated 30.10.2024, respondent No.1 rejected the refund holding that against the said order of CESTAT dated 20.02.2024, CEA No.26 of 2024 filed by the department is pending consideration before this Court.

9. A Division Bench of this Court has dismissed CEA No.26 of 2024 on 09.12.2024. Thus, as on date, there exists no reason for not following the previous order of the CESTAT.

10. Learned Senior Standing Counsel for CBIC did not dispute that CEA No.26 of 2024 was dismissed on 09.12.2024. He submits that the department is contemplating to file a Special Leave Petition before the Supreme Court.

11. The parties have confined their arguments to the extent indicated above and no other point is pressed.

12. In the impugned Order-in-Original dated 30.10.2024, the petitioner's claim was not allowed by taking shelter of pendency of CEA No.26 of 2024, which was, admittedly, dismissed.

13. Thus, we deem it proper to set aside the impugned Order-in-Original dated 30.10.2024 and restore the matter on the file of respondent No.1. The said authority shall rehear the petitioner and pass a fresh order in view of dismissal of CEA No.26 of 2024. The petitioner shall appear before respondent No.1 on 17.03.2025 at 11.30 am. The said authority shall hear the petitioner afresh and pass an order in accordance with law by taking into account

the previous order of the CESTAT and other provisions of law. The entire exercise be completed within thirty days from the date of the first appearance of the petitioner. It is made clear that this Court has not expressed any opinion on merits of the case.

14. The writ petition is accordingly **disposed of.** No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

SD/-K.AMMAJI
ASSISTANT REGISTRAR

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SECTION OFFICER

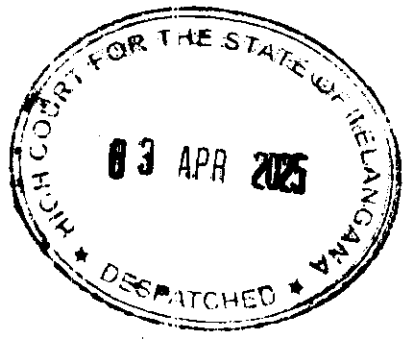
To,

1. The Assistant Commissioner of Customs, Export Promotion Division, 5th Floor, Jade Arcade, H.N.1-7-284-293, Flat No 505-508 M.G. Road, Paradise circle, Secunderabad - 500003.
2. The Principal Commissioner of Customs, Hyderabad GST and Customs Commissionerate GST Bhawan, Opp,LB Stadium Road, Basheerbagh Hyderabad-500004.
3. The Secretary to the Government Department of Revenue Ministry of Finance, Union of India, New Delhi 110001
4. One CC to Sri Karan Talwar, Advocate [OPUC]
5. One CC to Sri Dominic Fernandes (senior standing counsel for CBIC) [OPUC]
6. One CC to Sri Pulimamidi Shashidhar Reddy, Advocate [OPUC]
7. One CC to Sri Gadi Praveen Kumar, Deputy Solicitor General of India[OPUC]
8. Two CD Copies

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HIGH COURT

DATED:06/03/2025



ORDER

WP.No.307 of 2025

DISPOSING OF THE WRIT PETITION

WITHOUT COSTS

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2u/3/25

(10)