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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3432/2025**

**CABLE AND WIRELESS GLOBAL INDIA PRIVATE
LIMITED**

.....Petitioner

Through: Ms. Fereshte D. Sethna, Mr.
Mrunal Parekh and Mr. Ameya
Pant, Advs.

versus

**JOINT COMMISSIONER OF CENTRAL TAX APPEALS II
& ORS.**

.....Respondents

Through: Mr. Shubham Tyagi, SSC for
R-1 and R-2.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

ORDER

19.03.2025

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CM APPL. 16128/2025 (Ex.)

1. Allowed, subject to all just exceptions.
2. The application shall stand disposed of.

W.P.(C) 3432/2025

3. The petitioner has approached this Court aggrieved by the order dated 31 December 2024 in terms of which its prayer for refund of unutilized Input Tax Credit [“TTC”] amounting to INR 11,45,56,735/- for the Financial Year [“FY”] 2022-23 and first quarter of FY 2023-24 has come to be rejected.
4. We note that while dealing with an identical question, we had in **Cable and Wireless Global India Private Limited v. Assistant**



Commissioner, CGST & Ors.¹ and which was a judgment rendered *inter partes* held as under:-

“8. However, and on going through the returns which have been filed in these proceedings, we find that the export of services by the petitioner is an aspect which is neither disputed nor doubted. The only objection which is raised and which constitutes the basis for denial of refund is the remittance by VGSL to the bank account of the Bangalore office.

9. In light of the disclosures made by the petitioner pursuant to the earlier orders passed on this writ petition, it transpires that while originally the writ petitioner, while applying for registration for its Delhi BO had not provided any details of a bank account at Bangalore, at the time of the first core field amendment and review exercise and the filing submitted on 29 December 2020, bank account details including in respect of the one maintained at the Standard Chartered Bank Limited at Bangalore were also uploaded and mapped along with the original registration. It becomes relevant to note that the remittances from VGSL were credited to this account.

10. While it is true that the aforesaid mapping of the Bangalore bank account has occurred after the remittances were received, they are clearly in validation of the fact that services had been exported by the Delhi BO and which has now clearly disclosed an additional bank account maintained at Bangalore. That these remittances are connected with the services rendered by the Delhi BO to VGSL was neither questioned nor doubted by the respondents before us. The objection as taken thus clearly appears to be overly technical and unsustainable.

11. We bear in mind that the IGST Act while defining the expression "export of service" in Section 2(6) lays emphasis on the payment for such service being received by the "supplier of service". Section 2(6)(iv) does not tie the receipt of payment to a particular bank account. Of equal significance is how the IGST Act identifies and fixes the "location of the supplier of services" in Section 2(15) and which reads thus:-

"(15) "location of the supplier of services" means,—

(a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;

¹ 2024:DHC:7599-DB



(b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and

(d) in absence of such places, the location of the usual place of residence of the supplier,”

12. It is apparent from a reading of the aforesaid provision that the location of the supplier, in the facts of the present case, would undoubtedly be the Delhi BO of the petitioner. Merely because the remittance was received in a bank account situate at Bangalore, the same would neither warrant the location of the supplier identified in accordance with Section 2(15) being altered nor impact the determination of the actual supplier of service.

13. Similar would be the position which would obtain if one were to test the validity of the objection taken on the anvil of the provisions enshrined in the CGST Act. The phrase “*location of the supplier of services*” is defined in that enactment by Section 2(71) in the following terms:-

“(71) “location of the supplier of services” means,—

(a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;

(b) where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;

(c) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provisions of the supply; and

(d) in absence of such places, the location of the usual place of residence of the supplier;

14. Section 2(71) in unambiguous terms prescribes that the location of the supplier would be determined with reference to the situs of the place of business for which registration has been



obtained and the same being the place which had effected the supply. This thus reinforces the pre-eminence which the statute accords upon the registered place of business which has made the supply and thus the remittance being directed towards a particular bank account paling into insignificance.

15. The argument based on sub-sections (4) and (5) is of section 25 is equally misconceived. One must bear in mind that the CGST Act is principally concerned with the levy of a tax on intra-State supply of goods and thus presupposes the possibility of an entity having more than one establishment or a place of business in different States of the Union. It is this basic objective of the enactment that informs sub-sections (4) and (5) of Section 25 and the Legislature thus, out of abundant caution, having overridden the otherwise jurisprudential precept of branch offices not being separate and distinct juridical entities.

16. On an overall conspectus of the aforesaid, we find ourselves unable to sustain the impugned orders.”

5. Accordingly, and for reasons assigned therein we find ourselves unable to sustain the order impugned.

6. We, consequently, allow the present writ petition and quash the impugned order dated 31 December 2024. The claim for refund shall consequently be taken up for consideration afresh and disposed of with due expedition.

7. The respondents while examining the issue of refund shall also bear in consideration the claim for statutory interest as made by the writ petitioner.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.
MARCH 19, 2025/nd