IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14685 OF 2025

Valmet Flow Control Pvt. Ltd. Thr.
Its Authorised Director
Shri Vishwas Sham Lele
Aged about 50 years, Occ. Business,
having registered office at
Prop No.560, Manpada Road,
Near Bhopar Village, Thane
Maharashtra 421204
Mumbai – 400097. ...Petitioner

Versus

1. Union of India, Through its Secretary, Department of Finance, Jeevan Deep, Building, Sansad Marg, New Delhi – 01.

2. Central Board of Indirect Taxes and Customs, Through its Chairperson, North Block, Central Secretariat, New Delhi – 110001.

3. Assistant Commissioner of GST & Central Excise, Division – III, Thane Rural, 4th Floor, Vardan Chamnbers, Wagle Industrial Estate, MIDC, Thane ...Respondents

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Mr. Ram Heda i/b Priyanka Shukla for Petitioner.
Mr. Siddharth Chandrashekhar a/w Ms. Niyati Mankad a/w Ms. Priyanka Singh for Respondent Nos.1 to 3.

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

DATE: 22 APRIL 2026

Oral Judgment (Per : - G. S. Kulkarni, J.)

1. Rule, made returnable forthwith. By consent of the parties, heard finally.

2. This petition under Article 226 of the Constitution of India assails an order dated 3 April 2025, passed by the Assistant Commissioner, CGST and

Central Excise, Division – III, Thane Rural, Commissionerate. By the impugned order, the petitioner's claim for refund of an amount of Rs. 1,10,52,474/- has been rejected. The impugned rejection is on quite peculiar grounds, inasmuch as the refund application, which was for the period of August 2022, is held to be not maintainable in view of a previous refund application (Refund Application dated 26 April 2024, ARN- AA270424145558Z), being filed by the petitioner for the tax period July 2022 to September 2022 on which orders sanctioning the refund was passed, hence a second refund application for the intervening period i.e., for August 2022 being the period falling between July 2022 to September 2022 would not be maintainable.

3. In other words, the impugned order records that once an application for the period July 2022 to September 2022 praying for refund was made by the petitioner, the petitioner could not have maintained a separate application for a period which, in fact, stood covered insofar by the petitioner’s first application filed for the period July 2022 to September 2022. The relevant observations in that regard rejecting the petitioner’s refund application as made in the impugned order are required to be noted, which read thus:

FORM-GST-RFT-06

ORDER FOR SANCTION/REJECTION OF APPLICATION FOR REFUND

To.
SGTIN: 27AAICR6406QIZQ
Name Valmet Flow Control Private Limited
Prop No.560, Manpada Road,
Near Bhopar Village, Kalyan,
Thane, Maharashtra, 421204
….
….

ix) I find that this is not the case that the noticee submitted refund application against the Invoice No. 222360022 dated 24.06.2022 beyond the permissible period of two years of the relevant date. In this case the foreign remittance against the said invoice was received in the month of August, 2022 (22.08.2022) and they filed the refund application in the month of August, 2024 (09.08.2024). As such the two year time limit is adhered to in this cane. However, for sanctioning the GST refund online, two-year time limit as prescribed in Section 54 (1) of the CGST Act, 2017 is not the only condition to be followed, other conditions as laid down in the CBIC Circular No. 125/44/2019-GST dated 18.11.2019,135/05/2020-GST dated 31.03.2020, 197/09/2023-GST dated 17.07.2023 and Instructions No. 03/2022-GST dated 14.06.2022 have also to be followed.

x) It is found that in this case the refund was filed for the month of August, 2022-which was covered in the tax period (July-22 to September, 2022) against which the noticee had already filed refund application vide ARN-AA2704241455582 dated 26.04.2024 in the past and got the refund sanctioned, however, they had allegedly missed the instant invoice and so they have filed the subject ARN.

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xv) Conclusively I hold that the noticee is ineligible for filing refund claim against the Invoice No. 222360022 dated 24.06.2022 as refund claim for the relevant tax period was already made earlier as elaborated above.

xvi) In view of above factual matrix and provisions of CBIC circulars and instructions which are binding upon me, I am disposed to reject the Refund application vide ARN-AA270824037989F dated 09.08.2024.

xvii) In view of the above discussion and findings, I pass the following order-

ORDER

I reject the claim of refund of an amount Rs.1,10,52,474/- (CGST Rs.55,26,237/- and SGST Rs.55,26,237/-) vide ARN- AA280824038989F dated 09.08.2024 find by M/s. Valmet Flow Control Private Limited, under sub-section (5) of Section (54) of the CGST Act, 2017."

4. It is in these circumstances, the petitioner is before the Court, praying for the following substantive reliefs:

"i. For the writ of certiorari or writ in the nature of certiorari or any other appropriate writ, direction or order calling for the papers and proceedings of the impugned order passed under GST-RFT-06 dated 03-04-2025 by respondent

> no.3 to Quash and set aside the impugned order passed under GST-RFT-06 dated 03-04-2025 by Respondent No.3 **Exhibit -J** in the interest of justice;
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> ii. For the writ of certiorari or writ in the nature of certiorari or any other appropriate writ, direction or order thereof directing the respondent no.3 to process and sanction the refund claim amounting to Rs 1,10,52,474/- along with statutory interest in accordance with section 56 of CGST Act, 2017 in the interest of justice;
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> iii. Saddle the cost on the respondents.
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> iv. Grant any other relief which this Hon'ble Court deems fit and proper in the premises;"

5. At the outset, it is not disputed at the bar that this second refund application filed by the petitioner was within the prescribed limitation of two years as provided for under Section 54(1), being a provision for "refund of tax". Section 54(1), read with the proviso, is required to be noted which read thus:

> "54. Refund of tax.—(1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed:
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> Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in [such form and] manner as may be prescribed."

6. Learned counsel for the petitioner would submit that, *per se,* under sub-section (1), there is no embargo and/or any bar for a person to file more than one refund applications, and more particularly, in the facts of the present case, when, due to inadvertence, although entitled to the refund, the petitioner had inadvertently not included the invoices for the month of August 2022. In the absence of any such bar, it is the petitioner's contention that the observations made in the impugned order are not tenable, deserving the order to be set aside, and the refund application needs to be decided in accordance with law.

7. There is opposition to the petition on behalf of the respondent by filing reply affidavit of Mr. Dattatraya S. More, Assistant Commissioner, Division – III, CGST & C.Ex., Thane Rural Commissionerate, dated 24 February 2026.

8. Mr. Chandrashekhar, who represents the respondent, at the outset, would not dispute that except for the reasons which are set out in the impugned order, the refund application of the petitioner *qua* the invoices in question, which are subject matter of this petition, was filed within the prescribed limitation i.e. before the expiry of two years from the relevant date as prescribed under sub-section (1) of Section 54. He would also not dispute the plain language of sub-section (1), not creating any bar on a second application, in the event of such inadvertent error or mistake on the part of the party in including all the claims, as in the present case. He would, however, submit that the approach of the officer is required to be accepted, considering the circulars which were issued, and the reasons which are accordingly set out in the impugned order and as noted by us hereinabove.

9. Learned counsel for the petitioner has supported his contentions by referring to the decision of the Division Bench of the Gujarat High Court in **Shree Renuka Sugars Limited Vs. State of Gujarat**[1], to contend that, in similar circumstances, when the refund application suffered an arithmetical error, hence, a complete claim could not be made, the Division Bench of the Gujarat High Court entertained a challenge and allowed the petition by permitting the

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petitioners therein to file refund application for the left-out claim of Rs.10.20 crore. The relevant observations in that regard are required to be noted which reads thus:

> "14. Keeping in view the aforesaid decisions, it is settled law that the benefit which otherwise a person is entitled to once the substantive conditions are satisfied cannot be denied due to a technical error or lacunae in the electronic system. As discussed hereinabove, the petitioner has no option but to upload the supplementary application under "any other" category for the refund of the left out amount, which was due to an arithmetical error committed by the employee of the petitioner. We are of the view that the said claim of the petitioner for refund of the left out amount of Rs. 10,20,28,733 cannot be rejected outright merely on technicality and that too when the substantive conditions are satisfied without scrutiny by the respondent in accordance with law. Thus, the petition deserves to be allowed.
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> 15. The petition is allowed. The impugned order Nos. ZD240822013296L and ZD240822013287K dated August 26, 2022 are hereby quashed and set aside. The respondents are directed to allow the petitioner to furnish manually the refund applications for refund of the left out amount of Rs. 10,20,28,733. However, it is open for the respondents-authority to scrutiny the claim of the petitioner for refund of the aforesaid amount in accordance with law and to take appropriate decision on the applications which may be made by the petitioner. Let this exercise be undertaken by the respondents within a period of six weeks from the date of receipt of the applications from the petitioner. Rule is made absolute."

10. We find that the decision of the Gujarat High Court was placed for consideration of the Assistant Commissioner, CGST and Central Excise, who has passed the impugned order, however, it appears that the same has not been found to be relevant, on the basis that, in the present case, petitioner was at a fault in not including the claim in regard to the invoices for the period August 2022, whereas in the case of **Shree Renuka Sugars Limited** (supra), it was an arithmetical error, and therefore, the fact situation in the said proceedings was distinguishable.

11. In our opinion, the approach of the officer in passing the impugned order certainly is not correct, for more than one reasons; firstly, what has been missed, and as rightly urged on behalf of the petitioner, is that sub-section (1) of Section

54 does not provide any bar for a party to maintain more than one application, and more particularly, in a case where there is an inadvertent mistake or lapse. Thus, on the very first requirement of law, the application as filed by the petitioner was required to be held to be maintainable; secondly, such approach of the proper officer also would not be correct, when the basic condition of the petitioner's application was met i.e. the application being within the time frame as prescribed under sub-section (1) of Section 54, and in the absence of any specific bar for a second application, technicalities of the nature as observed in the impugned order could not have defeated the petitioner's right to maintain the second refund application for a decision on its merits. In matters of such application which are on specific refund application, for distinct periods, there is no question of reading any principles of *res judicata* or principles analogous thereto. This would defeat the object of the provisions, by creating an illusory bar. In any event, a too technical view cannot be taken to defeat the requirement of justice.

12. Further in our opinion, the proper officer ought to have followed the decision of the Gujarat High Court in **Shree Renuka Sugar Limited** (supra). The said decision, was required to be taken into consideration in the appropriate perspective, coupled with the clear reading of the substantive provisions, namely Section 54(1) of the CGST Act. In such context, we may also observe that, in a recent decision of this Court in **Rika Global Impex Limited Vs. Union of India and Others**[2], in which the Court referred to the decision of the Gujarat High Court in **Shree Renuka Sugars Limited** (supra) this Court had clearly observed

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that the view taken by the Gujarat High Court in **Shree Renuka Sugars Limited** (supra), had attained finality, was required to be accepted by the concerned officer as the said decision had become binding on the department. The observations as made by this Court in regard to the applicability of the decision are required to be noted, which reads thus:

> "23. In any event, the issue needs to be held to be concluded in view of the decision of the High Court of Gujarat in **Shree Renuka Sugars Ltd.** (supra) and **M/s.Satyendra Packaging Ltd.** (supra), which have attained finality in view of the Supreme Court dismissing the SLPs.
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> 24. There is substance in the contention of Mr. Jain, learned counsel for the petitioners, that once the department has accepted the decision of the High Court of Gujarat in **Shree Renuka Sugars Ltd.** (supra) and **M/s.Satyendra Packaging Ltd.** (supra) where necessarily the principles of law as laid down in the decision of the Division Bench of this Court in **Maneklal Chunilal & Sons Ltd. Vs. The Commissioner of Income Tax (Central) Bombay**[3] ought to apply. Chief Justice Mr. Chagla speaking for the Bench had observed that as a matter of uniform policy whatever view the Court may have, the view taken by another High Court on the interpretation of the section of a statute which is an all-India statute, needs to be accepted. The said decision was followed in the subsequent decision in **Commissioner of Income Tax, Bombay City-II vs. Jayantilal Ramanlal & Co.**[4] wherein the Division Bench of this Court, following the decision in **Maneklal Chunilal & Sons Ltd.** (supra) has made the following observations:
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>> "15. … …… .. In our opinion, therefore, the point is directly covered by the Full Bench decision of the Kerala High Court in Viswambharan's case [1973] 91 ITR 588, which was followed subsequently by the Division Bench of the Punjab and Haryana High Court. It is well-settled practice of this High Court, at least as far as income-tax law is concerned, that decisions of other High Courts ought to be followed for the sake of uniformity. In Maneklal Chunilal & Sons Ltd. v. CIT [1953] 24 ITR 375 (Bom), at p. 385, Chagla C.J., has enunciated the uniform policy pursued by the Bombay High Court in such matters where the Division Bench followed the view of a Special Bench of the Madras High Court, and it is pertinent to note that that view was followed although the opposite view favourable to the assessee appealed more to the Division Bench. Observations to the same effect are to be found in CIT v. Chimanlal J. Dalal & Co. [1965] 57 ITR 285 (Bom). In the latter case the judgment of the Gujarat High Court in CIT v. Kantilal Nathuchand [1964] 53 ITR 420 was doubted but still followed for the sake of uniformity. We are aware that the practice is not uniform among the High Courts, but nevertheless we are of opinion that it is desirable one. Unless the judgment of another High Court dealing with an identical or comparable provision can be regarded as per in-curium, it should ordinarily be followed. … … … "

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3 AIR 1954 Bom 135

4 (1982) 137 ITR 257

> 25. In our opinion, the wisdom of the above observations of Chief Justice Chagla, as followed in **Jayantilal Ramanlal & Co.** (supra), certainly needs to guide the department in the present times, more particularly considering the scores of matters being filed on the same issue before different High Courts, once the issue has attained finality, qua the department in view of an authoritative pronouncement by a High Court, similar contended issues ought not to be agitated by the department before the other High Courts. The situation further worsens by the department asserting a contrary position before such different High Courts, thereby inviting different interpretations and orders leading to judicial chaos. Such an issue certainly needs to be addressed by the Government of India either in the National Litigation Policy, so that uniform policy in respect of such issues is followed in proceedings before different High Courts in relation to Central Legislations and more particularly in tax matters. However, this certainly with the only exception, as observed in **Maneklal Chunilal & Sons Ltd.** (supra) qua a judgment of a High Court dealing with identical or comparable provisions, if it is regarded as *per incuriam*."

13. In view of the aforesaid contentions, we are clear opinion that the approach of the designated officer in rejecting the petitioner's refund application was certainly flawed, requiring this Court to set aside the said order and restore the proceedings of the refund application to the Assistant Commissioner, CGST for a fresh decision on its merits and in accordance with law.

14. We are accordingly inclined to allow this petition in terms of the following order:

ORDER

i. The impugned order dated 3 April 2025, passed by the Assistant Commissioner, CGST and Central Excise, Division – III, Thane Rural, Commissionerate, is quashed and set aside.

ii. The refund application filed by the petitioner dated 9 August 2024 is restored to the file of the said authority, to be decided in accordance with law after granting an opportunity of hearing to the petitioner.

15. All contentions of the parties including the petitioner's contention to claim interest are expressly kept open.

16. Rule is absolute made in the aforesaid terms. No costs.

(AARTI SATHE, J.) **(G. S. KULKARNI, J.)**

KAWRE KIRAN KALYAN
Digitally signed by KAWRE KIRAN KALYAN Date: 2026.04.24 19:04:37 +0530