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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 16th April, 2025*+ **W.P.(C) 3138/2025 & CM APPLs. 14824/2025, 21403/2025, 21404/2025****MS STESALIT LIMITED & ANR.**

.....Petitioners

Through: Mr. Balbir Singh, Sr. Adv. with Mr. Divyakant Lahoti, Ms. Praveena Bisht, Mr. Siddharth Tripathi, Mr. Karan Sachdeva & Ms. Shivali Shah, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Aditya Singla, SSC with Mr. Umang Misra, Adv.

CORAM:**JUSTICE PRATHIBA M. SINGH****JUSTICE RAJNEESH KUMAR GUPTA****Prathiba M. Singh, J. (Oral)**

1. This hearing has been done through hybrid mode.

CM APPL. 21404/2025 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

W.P.(C) 3138/2025 & CM APPLs. 14824/2025, 21403/2025

3. The present petition has been filed on behalf of the Petitioners- M/s Stesalit Ltd. and Mr. Alok Singhal *inter alia* assailing the Circular No. 235/2024-Goods and Services Tax ('GST') dated 11th October, 2024 issued by the Joint Secretary, Tax Research Unit, Department of Revenue, Ministry of Finance, Government of India.

4. This petition has been listed today before this Court in view of certain applications which have been filed by the Petitioner being, **CM APPL.**



14824/2025, CM APPL. 21403/2025 and CM APPL. 21404/2025.

5. The writ petition itself was first listed on 12th March, 2025 on which date, the Predecessor Bench was on leave and the matter was then adjourned to 18th March, 2025.

6. Mr. Balbir Singh, Id. Senior Counsel and Mr. Aditya Singla, Id. Senior Standing Counsel appearing for the Respondent-Department submit that a hearing in this matter took place on 18th March, 2025. On the said date, notice was issued in this writ petition and a direction was passed in Court to the effect that no coercive action would be taken against the Petitioner.

7. The Registry has however reported that the said order purportedly passed on 18th March 2025, was not signed by the Predecessor Bench and hence has not come on record. Since there is no order on the file, the Court has proceeded to hear the matter afresh.

8. The challenge in this writ petition is to the Circular No. 235/2024-Goods and Services Tax ('GST') dated 11th October, 2024 issued by the Joint Secretary, Tax Research Unit, Department of Revenue, Ministry of Finance, Government of India.

9. Vide the said circular, it has been stipulated that the Roof Mounted Package Unit ('RMPU') air conditioning machines for railways shall be classified under Harmonised System of Nomenclature ('HSN') 8415 and not 8607. The relevant portion of the said circular is set out below:

"2. Clarification regarding GST rate on Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways:

2.1 Representations have been received regarding classification of Roof mounted air conditioners for Railways as to whether these goods are to be classified under HS 8415 with 28% GST rate or HS 8607 with 18%



GST.

2.2 In this regard Goods falling under heading 8415 (including air conditioning machines) attract a GST rate of 28% vide S. No. 119 of Schedule IV of notification No. 01/2017-CT (Rate) dated 28.06.2017 (as amended). The goods falling under heading 8607 (including parts of railways or tramway locomotives) attract a GST rate of 18% vide S. No. 398G of Schedule III of notification No. 01/2017-CT (Rate) dated 28.06.2017 (as amended). Machines and apparatus of heading 8415, which include Air conditioning machines, are excluded from the ambit of 'parts' covered under heading 8607 as per Section note 2 of Section XVII of Customs Tariff Act, 1975. From a conjoint reading of Note 2 and Note 3 of the Section notes for the Section XVII, it is clear that goods of heading 8401 to 8479 (including 8415 – Air Conditioning Machines) are excluded from the ambit of 'parts' covered under Chapter 86.

2.3 Although there is no ambiguity in the classification, to make it explicitly clear, it is clarified that the Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways are classified under HS 8415."

10. It is stated that HSN code 8415 attracts GST at the rate of 28% while HSN Code 8607 attracts GST at the rate of 18%. The Petitioners vide the present petition *inter alia* seek that the RMPUs be classified under HSN Code 8607.

11. Thus, the core issue in this case is whether the RMPUs are to be classified under the HSN code 8415 or 8607.

12. According to Mr. Balbir Singh, Id. Senior Counsel appearing for the Petitioner, such RMPUs have always been classified under HSN Code 8607 and payment of 18% GST was the norm. Further, agreements have been entered into by the Petitioner on the said basis and if the same are classified



as per the Circular, it would completely disrupt the business of the Petitioner.

13. The Respondent however has issued the said circular, wherein, by way of a clarification it has been stipulated that such RMPUs shall be classified under HSN 8415 and not 8607.

14. The stand of the Petitioner is that the said circular is without jurisdiction inasmuch as it, in effect, takes away the power of the Adjudicating Authority to decide the correct classification. Moreover, it is also submitted that there are three advance rulings issued by the Authorities for Advance Ruling in Uttar Pradesh, in Madhya Pradesh and Himachal Pradesh wherein RMPU of this nature have been classified under HSN 8607 and not 8415.

15. The Court has heard the matter and has perused the said advance rulings. The Advance Ruling Authority, Uttar Pradesh has given its ruling on 14th February, 2020 in the following terms:

“The advance Ruling on question posed before the Authority is answered as under:

The classification of the "Roof Mounted AC Package Unit", manufactured as per the specific design and layout provided by the Railways and supplied to the Indian Railways only and no-where else, falls under Chapter 86.07 of the GST Tariff.

This ruling is valid subject to the provisions under Section 103(2) until and unless declared void under Section 104(1) of the CGST Act, 2017.”

16. Similar rulings have also been issued by the other two authorities of Madhya Pradesh and Himachal Pradesh. The ruling of the jurisdictional authority where the Petitioner is assessed is Himachal Pradesh and the Advance Ruling Authority, Himachal Pradesh has also given a ruling dated 11th April, 2022ss to the following effect:



“The advance Ruling on question posed before the Authority is answered as under:

The classification of the "Roof Mounted AC Package Unit", manufactured as per the specific design and layout provided by the Railways and supplied to the Indian Railways only and no-where else, falls under Chapter 86.07 of the GST Tariff.

This ruling is valid subject to the provisions under Section 103(2) until and unless declared void under Section 104(1) of the CGST Act, 2017

17. On 18th March, 2025, it is submitted that the Court had directed that no coercive action shall be taken against the Petitioner and the same was communicated to the Department.

18. The application *i.e.*, **CM APPL.21403/2025** has now been moved on behalf of the Petitioners, *inter alia*, seeking to place on record the Show Cause Notice dated 12th March, 2025 which was stated to have been received by the Petitioner on 19th March, 2025, subsequent to the hearing dated 18th March, 2025.

19. In the said Show Cause Notice, certain demands are sought to be raised against the Petitioner. The Petitioner intends to file a reply before the Adjudicating Authority. However, the apprehension is that in view of the circular which is impugned before this Court, the entire process before the Adjudicating Authority may become meaningless.

20. Be that as it may, considering that the Show Cause Notice has now been issued to the Petitioner, the Petitioner would file a reply to the Show Cause Notice. The Show Cause Notice shall proceed before the Adjudicating Authority who shall take into consideration all the relevant material including the advance rulings by different state authorities, the reply of the Petitioner as



also the impugned circular.

21. The proceedings shall continue before the Adjudicating Authority and the final order shall be passed, which shall be, however, subject to the outcome of this petition. It is made clear that the final order shall not be given effect without further orders of this Court.

22. Reply to the application being, **CM APPL.21403/2025** be filed by the next date of hearing. Considering that some time has elapsed before this Court as also that the Show Cause Notice itself gave the Petitioner 30 days to file a reply, the said period of 30 days shall run from today. The Petitioner may accordingly file a reply to the SCN within 30 days, after which the Adjudicating Authority shall proceed to adjudicate the matter.

23. List on 9th May, 2025.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

APRIL 16, 2025

Rahul/rks