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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 12th March, 2025

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W.P.(C) 114/2025 & CM APPL. 434/2025

M/S B BRAUN MEDICAL INDIA PVT LTDPetitioner

Through: Mr. Tarun Gulati, Sr. Advocate with
Ms. Ashwini Chandrasekaran, Mr.
Mahir Chablani and Mr. Devansh,
Advocates.

versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Shubham Tyagi, SSC for CBIC.

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

1. This hearing has been done through hybrid mode.
2. The present petition has been filed under Article 226 and 227 of the Constitution of India challenging,
 - (i) impugned order dated 28th June, 2024, being ***Order-in-Original no. 04/HK/JC/CGST/DSC/2024-25***, issued by the Id. Joint Commissioner of Central Goods and Services Tax, Delhi, South Commissionerate, and
 - (ii) the *vires* of Section 16(2)(aa) of the Central Goods and Services Tax Act, 2017.
3. *Vide* the impugned order a demand to the tune of Rs.5,65,91,691/- has been raised against the Petitioner on the ground that the Petitioner has wrongly



availed of excess Input Tax Credit (hereinafter ITC).

4. Petitioner is a company, which is engaged in the sale of various pharmaceutical products and medical devices. The case of the Petitioner is that it had purchased a large quantum of products from M/s. Ahlcon Parenterals (India) Limited (hereinafter 'Ahlcon') on the basis of various purchase orders. It is stated that the invoices for the said products were raised by Ahlcon on the Petitioner, however, the said invoices inadvertently reflected the Bombay address and Bombay GSTN of the Petitioner, instead of the Delhi GSTN number. This has led to the impugned demand.

5. On the last hearing *i.e.*, 8th January, 2025, Mr. Tarun Gulati, Id. Senior Counsel appearing on behalf of the Petitioner, relied upon the purchase orders and invoices, to submit that, the Petitioner is clearly a Delhi based company and incorrect reflection of Petitioner's Bombay GSTN on the invoices was merely an error by the supplier.

6. However, the Department had taken a stand that the Petitioner is not entitled to the ITC and has accordingly, passed the impugned order.

7. Today, the counter affidavit has been placed on record and the Court has pursued it.

8. As noted in the previous order, the fact of the matter is that the Petitioner's name is correctly mentioned in the invoices, however, the wrong GST number, *i.e.*, of the Bombay office has been mentioned. On this issue, there is no stand taken by the Department in the counter affidavit. On a direct query being put to the Id. Standing Counsel for the Respondent/Department, he fairly admits that no other entity has also claimed at the ITC on these purchases. The only basis for rejecting the ITC is the mention of the Bombay office GSTN instead of the Delhi office GSTN. Substantial loss would be



caused to the Petitioner if the credit is not granted for such a small error on behalf of the supplier.

9. Mr. Gulati, lastly submits that if the correction in the invoices is permitted and the Petitioner is provided the Input Tax Credit (ITC), the challenge to the constitutional validity shall not be pressed by the Petitioner.

10. In view of the above submissions and circumstances, the prayer of the Petitioner is allowed to the following extent:

- (i) The impugned Order in Original dated 28th June, 2024 rejecting the ITC is set aside.
- (ii) The Petitioner is permitted to avail of the Input Tax Credit in respect of the following supplies for the following period:

| <i>Period</i> | <i>Amount of excess availment of Input Tax Credit (in Rs.)</i> | | | |
|---------------------|--|----------------------|----------------------|---------------------------|
| | <i>IGST</i> | <i>CGST</i> | <i>SGST</i> | <i>Total</i> |
| <i>2017-18</i> | <i>1,49,69,083</i> | <i>0</i> | <i>0</i> | <i>1,49,69,083</i> |
| <i>2018-19</i> | <i>0</i> | <i>0</i> | <i>0</i> | <i>0</i> |
| <i>2019-20</i> | <i>2,32,95,508</i> | <i>81504</i> | <i>81504</i> | <i>2,34,58,516</i> |
| <i>2020-21</i> | <i>1,81,64,092</i> | <i>0</i> | <i>0</i> | <i>1,81,64,092</i> |
| <i>TOTAL</i> | <i>5,64,28,683</i> | <i>81,504</i> | <i>81,504</i> | <i>5,65,91,691</i> |

11. None of the other reliefs are pressed. Accordingly, the petition is partly allowed and is disposed of in above terms. All pending applications, if any, is also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MARCH 12, 2025/MR/Ar.