

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1966 OF 2025

Taiyo Nippon Sanso India Pvt. Ltd. ...Petitioner
Versus
Union of India & Ors. ...Respondents

Mr. Bharat Raichandani a/w Bhagrati Sahu i/b. UBR Legal Advocates for
Petitioner.

Ms. Shruti D. Vyas, Addl.G.P. a/w Aditya Deolekar, AGP for the State.

Adv. Suman Kumar Das i/b. Vijay Kantharia for Respondent Nos. 1 to 3.

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

DATE: 22 APRIL 2026

P.C.

1. This Petition under Article 226 of the Constitution of India is filed
praying for the following substantive reliefs:-

“a) that this Hon'ble Court be pleased to issue a Writ of certiorari/mandamus or any other appropriate Writ/order/ direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner case and after going into the validity and legality thereof to quash and set aside impugned rectification order dated 20.10.2022 (Exhibit A);

b) that this Hon'ble Court be pleased to issue a Writ of certiorari/mandamus or any other appropriate Writ/order/ direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner case and after going into the validity and legality thereof to quash and set aside impugned order in Form GST DRC 07 dated 21.04.2022 (Exhibit B);

c) that this Hon'ble Court be pleased to issue a Writ of certiorari/mandamus or any other appropriate Writ/order/ direction under Article 226 of the Constitution of India calling for the records

pertaining to the Petitioner case and after going into the validity and legality thereof and hold that the delay in filing the present writ petition was a bonafide delay and therefore the said delay be condoned;

d) that this Hon'ble Court be pleased to issue a writ of mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India ordering and directing the Respondent No. 4 by himself, his subordinates, servants and agents, pending disposal of the present petition, not to initiate the recovery of the demand along with interest and penalty, from the Petitioner and stay the same thereof till the pendency of the present petition;”

2. At the outset, learned Counsel for the Petitioner has submitted that he intends to restrict his prayers in respect of prayer clause (a), which seeks quashing and setting aside the rectification order dated 20th October 2022 (hereinafter referred to as the impugned order).

3. The facts lie in a narrow compass and are as hereunder:-

i. The Petitioner is a company *inter-alia* engaged in manufacturing and sale of industrial and medical specialty gases either in liquid or gaseous form, duly registered as a supplier with Goods and Services Tax (GST) Department.

ii. On 12th July 2021, the Petitioner received an email from Respondent No. 4 requesting the Petitioner to provide certain tax clarifications and reasoning for the financial year 2017-18. Thereafter, on 29th September 2021, an audit notice in Form GST ADT-01 was issued by Respondent No. 3, and the Petitioner complied with the said audit notice. The audit was thereafter closed on 15th November 2022 in Form GST ADT-02.

iii. On 20th October 2021, Respondent No. 4 issued certain discrepancies in Form GST ASMT-10, and also subsequently issued notices dated 29th November 2021 and 22nd December 2021 to the Petitioner. The Petitioner filed replies to the aforesaid notices seeking adjournment to submit the required documents, and an order dated 21st April 2022 came to be passed by Respondent No. 4 under Section 73(9) of the Central Goods and Services Tax Act, 2017 / Maharashtra Goods and Services Tax Act, 2017 (hereinafter referred to as the CGST Act and MGST Act respectively).

iv. Thereafter, on 14th July 2022, the Petitioner by email of even date informed Respondent No.4 that the Central GST authority i.e. Respondent No. 3 had already initiated audit proceedings for the disputed period, and therefore the State GST assessment by the State GST authority i.e. Respondent No.4 is required to be dropped, and hence order dated 21st April 2022 passed by Respondent No. 4 is required to be set aside.

v. On 20th July 2022, the Petitioner submitted an application for rectification under Section 161 of the CGST Act/ MGST Act and provided a comprehensive reply addressing all the discrepancies outlined in the order dated 21st April 2022 passed by Respondent No. 4, and the Petitioner sought an opportunity for a personal hearing to present its matter. Thereafter, the Petitioner once again addressed letters dated 27th July 2022 and 10th August 2022 along with annexures before the State GST authority i.e. Respondent No. 4, requesting them to set aside the order dated 21st April 2022, as the said order was passed without jurisdiction

since, there was an audit already undergoing for the disputed period by the Central GST Authority, i.e., Respondent No. 3.

vi. However, without appreciating the submissions and the relevant documents submitted by the Petitioner and without giving an opportunity of being heard, Respondent No. 4 passed the impugned order dated 20th October 2022, wherein the error in the names of the tax payer was rectified, however, the additional demand which was over and above the demand raised in the show cause notice in Form GST DRC-01 dated 22nd December 2021 was sought to be raised. It is this rectification order that the Petitioner is aggrieved by and has restricted their prayers in respect thereof.

4. Mr. Bharat Raichandani, along with Ms. Bhagrati Sahu appeared for Petitioner, and Ms. Shruti D. Vyas, Addl.G.P., along with Mr. Aditya R. Deolekar, AGP appeared for the State, and Ms. Suman Kumar Das instructed by Vijay Kantharia appeared for Respondent Nos. 1 to 3.

5. Mr. Raichandani, learned Counsel for the Petitioner has submitted that the impugned order of rectification has been passed without granting an opportunity of being heard to the Petitioner, and further without considering the legal and factual submissions made by the Petitioner. He has therefore submitted that the present proceedings are required to be remanded back to the Designated Authority to give a fresh hearing to the Petitioner and pass appropriate orders in respect of the rectification as sought by the Petitioner. Ms. Shruti Vyas, learned Addl.G.P. for the State has fairly submitted that the present proceedings can be

remanded for a fresh hearing after giving the Petitioner an opportunity of being heard.

7. In view thereof, we deem it appropriate to pass the following order, which will meet the ends of justice: -

ORDER

- a. The impugned order dated 20th October 2022 is hereby quashed and set aside.
- b. Proceedings stand remanded to Respondent No. 4/Designated Authority for *de novo* consideration. Respondent No. 4/Designated Authority is at liberty to issue a fresh show cause notice to the Petitioner within a period of 2 weeks from the date this order is made available.
- c. Post issuance of show cause notice, a personal hearing be granted to the Petitioner within a period of two weeks, and a reasoned and speaking order to be passed. Respondent No. 4/Designated Authority shall complete the determination within a period of 3 months from the date this order is made available.
- d. All contentions of the parties are expressly kept open.
- e. Petition stands disposed of in the aforesaid terms. No costs.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)