

W.P.(MD) No.13263 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.07.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.13263 of 2022

and

W.M.P.(MD) No.9414 of 2022

M/s.Shobikaa Impex Private Limited,
Represented by its Managing Director
M.Sivasamy,
No.34, Sannathi Street,
Vennaiimalai Post,
Karur - 639 006.

... Petitioner

Vs.

- 1.Union of India,
Through its Secretary,
Ministry of Finance, Department of Revenue,
Government of India, North Block,
New Delhi - 110 001.
- 2.The Chairman,
Central Board of Indirect Taxes and Customs,
North Block, New Delhi - 110 001.
- 3.The Chairperson, GST Council,
GST Council Secretariat,
5th Floor, Tower II, Jeevan Bharti Building,
Janpath Road, Connaught Place,
New Delhi - 110 001.



W.P.(MD) No.13263 of 2022

4.The Principal Chief Commissioner of
WEB COPY GST and Central Excise,
26/1, GST Bhawan, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600034.

5.The Additional Commissioner of
GST and Central Excise,
No.1, Williams Road, Cantonment,
Tiruchirappalli - 620 001.

6.The Deputy Commissioner of Customs,
Office of the Commissioner of Customs,
Chennai-IV, 60, Customs House,
Rajaji Salai, Chennai - 600 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari calling for the records of the fifth respondent in Order-in-Original No.01/2022-GST dated 23.03.2022 (DIN 20220359XN000041944C) and quashing the same.

For Petitioner : Mr.S.Durairaj
For R1 : Mr.V.Malaiyendran
Central Government Standing Counsel
For R4 to R6 : Mr.N.Dilipkumar
Senior Standing Counsel

ORDER

The petitioner has challenged the impugned Order-in-Original No. 01/2022 – GST, dated 23.03.2022 passed by the fifth respondent. By the impugned order, the fifth respondent has confirmed the demand proposed



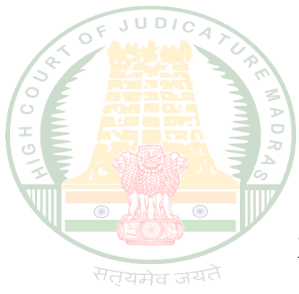
W.P.(MD) No.13263 of 2022

in the Show Cause Notice that preceded with the impugned order.

Operative portion of the impugned order reads as under:-

“ORDER

- i. *I confirm the demand of an amount of Rs. 22,50,53,102/- (Rupees Twenty Two Crore Fifty Lakh Fifty Three Thousand One Hundred and Two only) (IGST: Rs.22,50,53,102/-) made on M/s. Shobikaa Impex Private Limited, Karur towards the ineligible refund of IGST paid on exports availed by them during the period from January, 2019 to September, 2020, made under Section 74(1) of Central Goods and Services Act, 2017 read with the Section 20 of the IGST Act, 2017 along with the corresponding provisions of the SGST Act and I determine the same under Section 74(9) of the CGST Act, 2017 read with read with the Section 20 of the IGST Act, 2017 along with the corresponding provisions of the SGST Act;*
- ii. *I order that M/s. Shobikaa Impex Private Limited, Karur shall pay interest at appropriate rates on the amount confirmed as in Sl.No.(i) above, under the provisions of Section 50 of the CGST Act, 2017 read with the Section 20 of the IGST Act, 2017, along with the corresponding provisions of the SGST Act; and*
- iii. *I impose a penalty of Rs.22,50,53,102/- (Rupees Twenty Two Crore Fifty Lakh Fifty Three Thousand One Hundred and Two only) on M/s. Shobikaa Impex Private Limited, Karur under Section 122 (2)(b) of the CGST Act 2017 read with the Section 20 of the IGST Act, 2017, along with the corresponding provisions of the SGST Act.”*



W.P.(MD) No.13263 of 2022

2. The reasons given in the impugned order for rejecting the refund

claims filed by the petitioner under Rule 96 of the CGST Rules, 2017 read

as under:-

“Section 54 of the CGST Act, 2017 provides for refund of tax paid and input tax credit which has been accumulated in certain conditions and this section also lays down conditions subject to which the refund can be claimed. Thus, in case if any exporter chooses the option under Section 16(3)(b) as above, the conditions, safeguards and procedures prescribed thereon have to be adhered to, which, in this case, are provided for under Rule 96(10) of the CGST Rules, 2017. From the provisions of Section 16 of IGST Act, 2017, it is clearly seen that the benefit of refund of IGST paid goods or services supplied is restricted to the case of making zero rated supplies. Rule 96(10) was inserted under the powers conferred under Section 164 of CGST Act, 2017 in order to prevent exporters from availing double benefits of duty free / concessional procurement of inputs by availing the benefit under the relevant notification and of refund of IGST paid on exports as it will tantamount to monetization of Input Tax Credit which is attributable towards the non-export supplies. Thus, Rule 96(10) of the CGST Rules, 2017 seeks to prevent an exporter who is receiving the goods (inputs) availing the benefit of certain notifications under which they supply goods without payment of tax or reduced rate of tax, from exporting their final products on payment of integrated tax by way of utilizing their ITC which may not be attributable to the export goods. In other words, the provisions of Rule 96(10) of CGST Rules,



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W.P.(MD) No.13263 of 2022

2017 are intended to ensure that the exporter does not utilize the input tax credit availed on other domestic supplies received for making the payment of IGST on exports. Thus, Rule 96(10) of CGST Act, 2017 invariably bars an exporter to pay IGST on exports when they have procured inputs by way of availing benefits under Notification No. 48/2017-Central Tax dated the 18.10.2017, Notification No. 78/2017-Customs dated 13.10.2017 and Notification No. 79/2017-Customs dated 13.10.2017. The fundamental principle governing the provisions of refund thus is that in the case of exports, taxes are not exported and accordingly, the tax suffered on the inputs used in the manufacture of export goods is refunded to the taxpayer. However, when tax has not been paid on the goods used in the manufacture of export goods, refund of IGST would tantamount to encashment of ITC. Thus the provisions of Rule 96(10) was formulated to prevent encashment of ITC and to give refund of IGST only where tax paid inputs were used for manufacture of export goods. Thus, after insertion of the Rule 96(10) of CGST Rules, 2017, the said rule effectively bars any exporter who had availed the benefits under Notification No. 48/2017- Central Tax dated the 18.10.2017, Notification No. 78/2017-Customs dated 13.10.2017 and Notification No. 79/2017-Customs dated 13.10.2017, from paying IGST on export goods, including by way of utilizing ITC, and getting refund of the same and this rule applies to all exporters in general. The only criteria to be seen for determining the eligibility of an exporter for paying IGST on export and getting refund of the same, is whether the exporter had availed the benefits under the above said notifications while procuring inputs. On applying the above criteria, it is clearly seen that M/s. Shobikaa Impex, Karur, having availed the benefits under the above said notifications while procuring



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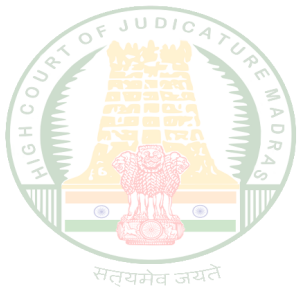


W.P.(MD) No.13263 of 2022

inputs, are not eligible to pay IGST on export goods and to avail refund of the same.

28. The provision of Rule 96(10) is a result of rule making power exercised by the government under Section 164 of the CGST Act, 2017 and on the recommendation of the statutory body i.e. GST Council and is also consistent with the provisions of the Section 16(3)(b) of the IGST Act, 2017. Therefore, I find that the Section 16(3) of the IGST Act, 2017 extended authority for refund of tax paid on the goods / services, the same section also ensured that such claims are not absolute and they would be subject to such conditions, safeguards and procedures as may be prescribed. Section 16 of the IGST Act, 2017 does not offer carte blanche for claim of refund and it only provides for allowing such claims of legitimate refunds which are not contrary to or out of the ambit of larger limitations of law created by imposition of restrictions.

29. In their reply to the Show Cause Notice, the Noticee have stated that they have also procured inputs, input services and capital goods on payment of tax and availed Input Tax Credit and hence they are having huge accumulated credit in their electronic ledger. They have further stated that major portion of the above credit is related to zero rated supply and such ITC must be granted as refund in terms of Section 54 of the CGST Act, 2017 read with Section 16 of the IGST Act, 2017. In the present case, the Noticee have opted to pay IGST on export goods by availing the ITC and to claim of refund of such IGST paid on export goods under Rule 96 of the CGST Rules, 2017. In this manner, the Noticee have monetized the Input Tax credit, not only in respect of inputs / input services but also in respect of capital goods which otherwise would not have been available to them, had they opted for



WEB COPY



W.P.(MD) No.13263 of 2022

refund under Rule 89 of the CGST Rules, 2017.

30. The Noticee, in effect, claims that since major portion of the ITC availed by them is related to zero rated supply, such ITC must be granted as refund in terms of Section 54 of the CGST Act, 2017 read with Section 16 of the IGST Act, 2017 and such refund has to be granted in terms of Rule 89(4) or Rule 89(4B) or Rule 96 of the CGST Rules, 2017 and that if refund is not applicable under Rule 96, then refund must be sanctioned under Rule 89(4B) so that the legislative intention is not defeated. From the reply furnished by the Noticee itself, it is quite clear that the Noticee is well aware of the fact that they are not eligible for claiming refund of IGST paid on export goods and they, in the normal course, ought to have applied for eligible refund in terms of Rule 89(48) of CGST Rules, 2017 only. However, the Noticee had consciously opted to pay IGST on export goods and availed refund of the same to the tune of Rs. 22,50,53,102/-under Rule 96 of the CGST Rules, 2017. This is evident from the fact that even after starting to pay IGST on exports and claiming refund of the same in terms of Rule 96(1) of the CGST Rules 2017, the taxpayer have also cleared the export goods without payment of duty on LUT/Bond. Since the Noticee had availed refund of IGST in contravention of provisions under Rule 96(10) of CGST Rules, 2017, the present proceedings have been initiated against them to recover the ineligible refund of IGST availed by them.

31. In their reply to the notice, the Noticee have stated that the eligible refund of ITC on input and input services under Rule 89(4B) is Rs. 21,35,08,672/- and the amount claimed as refund under Rule 96 is Rs.22,50,53,102/- and the difference of Rs.1,15,44,430/- is attributable to



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W.P.(MD) No.13263 of 2022

capital goods credit. In other words, the Noticee have requested that the amount of Rs.21,35,08,672/- which, as per their claim, is otherwise eligible for refund under Rule 89(4B) of CGST Rules, 2017 should be granted to them. The Noticee have not opted for filing refund application under Rule 89(4B) of CGST Rules, 2017 and they have deliberately opted to pay IGST on export goods by availing the ITC and claim refund of such IGST paid, under Rule 96 of the IGST Rules, 2017. The applicability of refund under Rule 89(4B) of CGST Rules, 2017 is subject to the terms and conditions and procedures stipulated thereunder. The present Show Cause Notice is limited to the aspect as to whether the refund of IGST paid on export goods is eligible or not in terms of provisions of Section 16(3) of the IGST Act, 2017 read with Rule 96(10) of the CGST Rules, 2017. Thus, the issue raised by the Noticee as above is clearly out of the scope of present proceedings and as such, any discussion on the same will clearly be tantamount to travelling beyond the scope of the Show Cause Notice.

32. In their letter dated 21.02.2022, the Noticee have cited the decision of the Hon'ble High Court of Delhi in the case of Pitambra Books Private Ltd. Vs. Uol reported in 2020 (34) GSTL 196 (Del) to claim that the substantive benefits available to the exporter under Rule 89 is to be determined and extended to them. The above case relates to refund application filed under Rule 89 of CGST Rules, 2017 and the applicability of the procedures stipulated thereunder. Hence, the above decision is not applicable to the case at hand.

33. In their written submission dated 07.03.2022 filed at the time of personal hearing, the Noticee have cited the decision of the Hon'ble High Court of Gujarat in the case of M/s. Filatex India Ltd. Vs.



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W.P.(MD) No.13263 of 2022

Uol reported in 2022 (2) TMI 1002, to contend that they are entitled to refund under Rule 89(4B) of CGST Rules, 2017. In the above case, the appellant had filed refund application under Rule 89(4) of the CGST Rules, 2017 which was rejected on the ground that refund under Rule 89(4) is not eligible but refund is eligible only under Rule 89(4B). In the above case, the Hon'ble High Court has upheld the order passed by the Commissioner (Appeals) in remanding the case back to the lower authority to determine and sanction the eligible refund under Rule 89(4B). In the above case, the appellant have duly filed refund claim under Rule 89 following the conditions stipulated thereunder for claim of refund of unutilized ITC on account of exports without payment of tax. The appellant had filed refund as per the formula stipulated in Rule 89(4) as sub-rule (4B) of Rule 89 does not provide any formula and the dispute in this case is how to arrive at the quantum of ITC availed in respect of inputs or input services to the extent used in exporting the goods. In the affidavit filed by the department, it was stated that such quantum can be arrived in terms of Input-Output ratio of the inputs and raw materials used in the manufacturing of exported goods. Accordingly, the case was remanded back for adjudication of the claim of the writ applicant in accordance with Rule 89(4B) keeping in mind the formula of input- output ratio as stated by the department in the affidavit filed in that litigation. Thus, the issue in the above cited case was essentially on the formula to be adopted for arriving at the quantum of ITC in respect of input / input services used in the manufacture of export goods. Whereas the present case is to determine the eligibility or otherwise of refund of IGST paid on export goods and the Noticee have not at all opted for refund of ITC on inputs/input services under Rule 89(4) of CGST Rules, 2007. Therefore, the case law cited by them



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W.P.(MD) No.13263 of 2022

does not come to their rescue.

34. In view of the above, I find that the noticee are not entitled for refund of the IGST paid on export goods inasmuch as such aet had contravened the provisions of Rule 96(10) of the CGST Act, 2017 and the refund of IGST claimed to the tune of Rs. 22,50,53,102/- (Rupees Twenty Two Crore Fifty Lakh Fifty Three Thousand One Hundred and Two only) (IGST: Rs.22,50,53,102/-) during the period from January, 2019 to September, 2020 is liable to be recovered from them along with applicable interest.

35. In the subject Show Cause Notice, the ineligible refund of IGST availed by the Noticee is sought to be recovered under the provisions of Section 74 of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017, by invoking the extended period of limitation. The Noticee have claimed that extended period of limitation cannot be applied to the present case for the reasons that all the details are reflected in the GST Returns and that no information was deliberately withheld with an intent to evade and no allegation of fraud or wilful mis-statement or suppression of facts to evade tax has been made in the Show Cause Notice. The provisions of Section 16(3) of the IGST Act, 2017 and Rule 96(10) of CGST Rules, 2017 are straight and simple and leave nothing for any interpretation. In terms of Rule 96(10) of CGST Rules, 2017, persons claiming refund of integrated tax paid on exports of goods or services should not have received supplies on which the benefit of the Notifications No. 48/2017-Central Tax, dated the 18th October, 2017, No.78/2017 Customs dated 13.10.21017 and No.79/2017 Customs dated 13.10.2017. In the present case the taxpayer have availed the benefit under the above-mentioned Notifications and still, paid IGST on



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W.P.(MD) No.13263 of 2022

export and availed refund of the same in terms of Rule 96(1) of the CGST Rules, 2017, even when there is a specific bar on such payment of IGST and on the eventual availing of refund of such IGST paid on export goods. It is further noticed that even after starting to pay IGST on exports and claiming refund of the same in terms of Rule 96(1) of the CGST Rules, 2017, the taxpayer have also cleared the export goods without payment of duty on LUT / Bond. From the factual position as above, it is clearly discernible that the tax payer is well aware that when exemption under Notifications No. 48/2017-Central Tax, dated the 18th October, 2017, No.78/2017 Customs dated 13.10.21017 and No. 79/2017 Customs dated 13.10.2017 are availed on procuring inputs, they are not entitled for refund of any IGST paid on exports. In spite of the clear legal position as above, the taxpayer had deliberately paid IGST on exports and availed refund of the same, thus deliberately contravened the provisions of Rule 96(10) of the CGST Rules, 2017. In the case of refund of IGST paid on exports, the same is processed by the Gateway Customs Authorities based on the Shipping Bill, GSTR-1 and GSTR-3B where the Shipping Bill itself is deemed to be a refund application, and in such cases, the ITC utilized for payment of IGST can be of any type including ITC on Capital Goods. Where there is an express restriction on getting refund of IGST paid on exports, the Noticee preferred to pay IGST on exports with an intent to avail ineligible refund of IGST. If the taxpayer had to opt for refund under Rule 89 of the CGST Rules, 2017, the same is subjected to various restrictions and conditions and it is for the very reason the taxpayer had deliberately resorted to export of goods on payment of IGST for encashing the ITC paid on the inputs, even after knowing fully well that Rule 96(10) of CGST Rules, 2017 clearly prohibits such availment



WEB COPY



W.P.(MD) No.13263 of 2022

of refund. Thus, I find that the very act of the taxpayer in paying IGST on export goods utilizing the ITC and availing refund of the same tantamount to suppression of fact for getting refund of IGST which is ineligible. The wrong and deliberate payment of IGST on exports and availing refund of the same in spite of having availed exemption on procurement of inputs, has been brought to light only after the department called for the relevant details from the taxpayer. Thus, I find it is a clear case where the refund of IGST has been availed in a method which tantamount to misstatement of facts and as such, the amount of IGST which has been erroneously refunded is liable to be recovered from the taxpayer under Section 74 of the CGST Act, 2017 read with Section 20 of the IGST Act, 2017 along with the corresponding provisions of SGST Act, by invoking the extended period of limitation, along with appropriate interest under the provisions of Section 50 of the CGST Act 2017 read with the Section 20 of the IGST Act, 2017, along with the corresponding provisions of the SGST Act. For the same reasons, I find that the Noticee have rendered themselves liable to penalty under Section 122(2)(b) of the CGST Act, 2017.”

3. The case of the petitioner is that the petitioner is a 100% Export Oriented Unit [EOU] and had exported goods out of country and that by mistake, the petitioner had wrongly claimed refund under Rule 96 of the CGST Rules, 2017 on the IGST paid by the petitioner on capital goods and inputs utilized for export of goods instead of Rule 89 of the CGST Rules, 2017.



W.P.(MD) No.13263 of 2022

WEB COPY 4. It is submitted that the petitioner should have filed refund claim under Rule 89 of the CGST Rules, 2017. It is submitted that at the time when the show cause notice dated 14.12.2021 was issued to the petitioner, there was no machinery provided for reversing the excess amount claimed as refund by the petitioner, which was sanctioned by the fifth respondent periodically as and when the refund claims were filed by the petitioner under Rule 96 of the CGST Rules, 2017.

5. The learned counsel for the petitioner submitted that the shipping bills that were filed for export of the goods were treated as the refund claim for the purpose of Rule 96 of the CGST Rules. The learned counsel further submitted that the total amount of refund claim that was ordered during the period is Rs.22,50,53,102/- and that after the admission of this Writ Petition, the petitioner has also reversed the proportionate amount of Rs.1,15,00,000/- and further sum of Rs.49,59,000/- towards interest on 22.12.2022.

6. It is further submitted that the amount has been remitted by debiting the Electronic Cash Register of the petitioner. It is submitted that



W.P.(MD) No.13263 of 2022

this was possible only in view of the amendment to Rule 96 of the CGST

Rules, 2017, vide Notification No.14/2022-Central Tax, dated 05.07.2022,

which replaced Sub-Rule 5A, 5B and 5C. It is therefore, submitted that the liability has been squared up and therefore, the impugned order be quashed.

7. It is further submitted that pursuant to the amendment to Rule 96 of the CGST Rules, the Board has also issued Circular CBEC-20/08/02/2020-GST/1377-78, dated 28.11.2022.

8. In response, the learned Senior Standing Counsel for the fourth to sixth respondents has filed a counter and additional counter titled as "Rejoinder", wherein at Paragraphs 5 and 11, it has been stated as under:-

"5.In so far as the averments in paragraph 7.0 of the Rejoinder affidavit, it is submitted that the averments in the above para of the Rejoinder dated 12.04.2023, the petitioner has explained the subsequent amendments in Rule 96 and the same is accepted. As per the amendments, disputed refund claims under Rule 96 are to be disposed of under Rule 89 by the Jurisdictional Assistant /Deputy Commissioner. It is a fact that as per the Circular CBEC- 20/08/02/2020-GST/1377-78 dated 28.11.2022, the Jurisdictional Assistant /Deputy Commissioner has to complete the assessment as per Rule 89(4) of the CGST Rule, 2017.



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W.P.(MD) No.13263 of 2022

11.Hence, it is humbly prayed that this Hon'ble High Court may be pleased to dismiss this present writ petition with a direction to prefer an appeal before the competent authority or pass such order as deemed fit. Alternatively, it is prayed that if this Hon'ble High Court considers the plea of the petitioner needs legal remedy then a judicial decision as to whether the Jurisdictional Assistant /Deputy Commissioner could re-process and complete the refund claim of the petitioner under Rule 89 of CGST Rule, 2017 may kindly be issued as deemed fit by this Hon'ble High Court."

9. I have considered the submissions made by the learned counsel for the petitioner and the learned Central Government Standing Counsel for the first respondent and the learned Senior Standing Counsel for the fourth to sixth respondents.

10. The petitioner is admittedly a 100% Export Oriented Unit [EOU] and has wrongly availed the benefit of refund under Rule 96 of CGST Rules, 2017 seeking to grant refund of input tax credit availed and utilized in discharging IGST on the exported goods. It is however subjected to rider or limitation under Rule 96(10) of the CGST Rules, 2017. Rule 96(10) of the CGST Rules, 2017 reads as under:-



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W.P.(MD) No.13263 of 2022

“96. Refund of integrated tax paid on goods or services exported out of India-

(1)

(10) *The persons claiming refund of integrated tax paid on exports of goods or services should not have*

-

(a) *received supplies on which the benefit of the Government of India, Ministry of Finance notification No. 48/2017-Central Tax, dated the 18th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1305 (E), dated the 18th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme or notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321 (E), dated the 23rd October, 2017 has been availed; or*

(b) *availed the benefit under notification No. 78/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1272(E), dated the 13th October, 2017 or notification No. 79/2017-Customs, dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1299 (E), dated the 13th October, 2017 except so far it relates to receipt of capital goods by such person against Export Promotion Capital Goods Scheme.”*



W.P.(MD) No.13263 of 2022

WEB COPY 11. The petitioner is perhaps entitled to exemption under Rule 89 of the CGST Rules, 2017, as the petitioner has received inputs under CBEC Notification No.48/2017-Central Tax, dated 18.10.2017 and under Notification No.78/2017-Cus (Tariff) dated 13.10.2017 amending Notification No.52/2003-Cus (Tariff) dated 31.03.2003.

12. I am of the view, the procedural irregularity committed by the petitioner should not come in the legitimate way of grant of export incentives as admittedly exports were made and the refund claims were itself based on the shipping bills.

13. The Court has repeatedly held that procedural irregularity should come in the legitimate way of grant of export incentives. In this connection, I would like to place reliance on the decision of the Hon'ble Supreme Court in **Commissioner of Sales Tax, Uttar Pradesh Vs. Auriaya Chamber of Commerce, Allahabad**, 1986 (3) SCC 50 : (1986) 25 ELT 867, wherein, it has been held that the rules or procedures are hand-maids of justice not its mistress. Relevant paragraph reads as under:-



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W.P.(MD) No.13263 of 2022

“29. It is true that except special provisions indicated before, there is no specific provision which prescribes a procedure for applying for refund in such a case. But the rules or procedures are handmaids of justice not its mistress. It is apparent in the scheme of the Act that sales tax is leviable only on valid transaction. If excess amount is realised, refund is also contemplated by the scheme of the Act. In this case undoubtedly sales tax on forward contracts have been illegally recovered on a mistaken view of law. The same is lying with the government. The assessee or the dealer has claimed for the refund in the revision. In certain circumstances refund specifically has been mentioned. There is no prohibition against refund except the prohibition of two years under the proviso of Section 29. In this case that two years prohibition is not applicable because the law was declared by this Court in Budh Prakash Jai Prakash case [AIR 1954 SC 459 : (1955) 1 SCR 243 : (1954) 5 STC 193] on May 3, 1954 and the revision was filed in 1955 and it was dismissed in 1958 on the ground that it had been filed after a long delay. Thereafter the assessee had filed an application before the Sales Tax Officer for refund. The refund was claimed for the first time on May 24, 1959. The Sales Tax Officer had dismissed the application by barred by limitation under Article 96 of the First Schedule of the Indian Limitation Act, 1908.”

14. That apart, the legitimate export incentives ought to be granted as an exporter competes in the international market. Under these circumstances, the impugned order is set aside and the case is remitted back to the fifth respondent to pass fresh order by examining the exports made by the petitioner for grant of refund under Rule 89 of the



W.P.(MD) No.13263 of 2022

CGST Rules, 2017 in terms of Section 16(3) of the IGST Act, 2017. This

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exercise shall be completed by the fifth respondent taking note of the amendments to Rule 96 (5A) of the CGST Rules, 2017 read with Instruction No.04/2022-GST [F.No.CBEC-20/08/02/2020-GST/1377-78] dated 28.11.2022 issued by the Central Board of Indirect Taxes and Customs, within a period of 3 months from the date of receipt of a copy of this order.

15. In the result, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

01.07.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

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Copy To:
1.The Secretary,
Ministry of Finance,
Department of Revenue,
Government of India,
North Block,
New Delhi - 110 001.



W.P.(MD) No.13263 of 2022

- 2.The Chairman,
Central Board of Indirect Taxes and Customs,
North Block, New Delhi - 110 001.
- 3.The Chairperson, GST Council,
GST Council Secretariat,
5th Floor, Tower II, Jeevan Bharti Building,
Janpath Road, Connaught Place,
New Delhi - 110 001.
- 4.The Principal Chief Commissioner of GST and Central Excise,
26/1, GST Bhawan, Mahatma Gandhi Road,
Nungambakkam, Chennai - 600034.
- 5.The Additional Commissioner of GST and Central Excise,
No.1, Williams Road, Cantonment,
Tiruchirappalli - 620 001.
- 6.The Deputy Commissioner of Customs,
Office of the Commissioner of Customs,
Chennai-IV, 60, Customs House,
Rajaji Salai, Chennai - 600 001.



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W.P.(MD) No.13263 of 2022

C.SARAVANAN, J.

JEN

W.P.(MD) No.13263 of 2022
and
W.M.P.(MD) No.9414 of 2022

01.07.2024