



2024: DHC: 1673-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Judgment reserved on :05 February 2024**
Judgment pronounced on: 01 March 2024

+ **W.P.(C) 12209/2023 & CM APPL. 47988/2023**

RAGHAV VENTURES

..... Petitioner

Through: Mr. Virag Tiwari, Mr.
Ramashish & Mr. Rishabh Jain,
Advocates

versus

COMMISSIONER OF DELHI GOODS & SERVICES
TAX

..... Respondent

Through: Mr. Rajeev Aggarwal, ASC
with Ms. Shaguftha H.
Badhmar & Ms. Samridhi Vats,
Advocates

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T

RAVINDER DUDEJA, J.

1. The present Writ Petition has been filed, seeking direction to the respondent to grant the total IGST refund of Rs. 2,44,75,410/- for the tax period December 2022, February 2023, March 2023 and May 2023 with interest in terms of Section 56 of DGST/CGST Act.

2. Petitioner is an exporter of mobile phones of various brands and accessories. Beginning from April 2022, the petitioner has been exporting the mobile phones and its accessories to M/s AZ Logistic,



Dubai, UAE on payment of Integrated Goods & Service Tax [IGST]. Refunds in normal course were claimed through shipping bills, which were released by the Customs through ICEGATE after processing the shipping bills filed from time to time.

3. During the month of December 2022, mobiles worth Rs. 9,06,49,174/- were exported on payment of IGST of Rs. 1,63,16,851/-. For the month of February 2023, exports to the tune of Rs. 2,80,38,271/- were made, on which, IGST of Rs. 50,46,889/- was paid. Likewise, in the month of March 2023, exports worth Rs. 95,90,489/- were made on which IGST of Rs. 17,26,288/- was paid and for the month of May 2023, mobiles and its accessories worth Rs. 76,96,568/- were exported after discharging burden of IGST of Rs. 13,85,382/-.

4. The case of the petitioner is that as per sub Rule (2) of Rule 96 of the CGST/DGST Rules, 2017, details of export invoices in respect of export of goods contained in Form GSTR-I were transmitted electronically by the common portal to the system designed by the Customs. Thereafter, the system electronically transmits to the common portal a confirmation that the goods covered by the said invoices have been exported out of India, where after, refund is processed by the Customs through ICEGATE in terms of Rule 96 (3).

5. Section 54 of CGST/DGST Act, 2017, provides that any person claiming refund of tax and interest, 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. Rule 96



of the CGST/DGST Rules, 2017 stipulates the procedure for filing the application. It provides as under:-

“96. Refund of integrated tax paid on goods [or services] exported out of India:

(1) *The shipping bill filed by [an exporter of goods] shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India and such application shall be deemed to have been filed only when--*

(a) *the person in charge of the conveyance carrying the export goods duly files [a departure manifest or] an export manifest or an export report covering the number and the date of shipping bills or bills of export; and*

(b) *the applicant has furnished a valid return in **FORM GSTR-3** [for **FORM GSTR-3B**];*

[(c) the applicant has undergone Aadhar authentication in the manner provided in rule 10B.]

(2) *The details of the [relevant export invoices in respect of export of goods] contained in **FORM GSTR-1** shall be transmitted electronically by the common portal to the system designated by the Customs and the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India:*

*[PROVIDED that where the date for furnishing the details of outward supplied in **FORM GSTR-1** for a tax period has been extended in exercise of the powers conferred under Section 37 of the Act, the supplier shall furnish the information relating to exports as specified in Table 6A of **FORM GSTR-1** after the return in **FORM GSTR-3B** has been furnished and the same shall be transmitted electronically by the common portal to the system designated by the Customs.*

*PROVIDED FURTHER that the information in Table 6A furnished under the first proviso shall be auto-drafted in **FORM GSTR-1** for the said tax period.].....”*

6. Admittedly, petitioner furnished returns in **FORM-GSTR-3B** and also submitted applications for refund vide **FORM-GST-RFD-01**. System generated acknowledgements were issued vide **FORM-GST-RFD-02**, acknowledging the receipt of refund applications.



7. We have been informed that pending this petition, IGST refund for the tax period December 2022, February 2023, March 2023 and May 2023 has been sanctioned, but without interest. Petitioner claims that the said refund was credited into his account on 04.12.2023. He gave an application dated 06.12.2023 to the proper officer (Special Commissioner), Department of Trade & Taxes, praying for the grant of interest at the rate of 6% from the date of filing of refund applications till 03.12.2023.

8. Learned counsel for the respondent has raised objection to the grant of interest, arguing that vide **FORM-GST-RFD-01**, petitioner has only claimed the integrated tax and not the interest on the same and therefore he is not entitled for the grant of interest on the tax amount.

9. Section 56 of the CGST/DGST Act deals with the interest on delayed refunds. It provides that if any tax ordered to be refunded under sub-section (5) of Section 54 is not refunded within 60 days from the date of receipt of application under sub-section (1) of that Section, interest at the rate of 6% shall be payable in respect of such refund from the date immediately after the expiry of 60 days from the date of the receipt of the application till the date of refund of such tax.

10. Learned counsel for the petitioner drew our attention to Para 34 of the Circular issued by CBEC vide No. 125/44/2019-GST dated 18.11.2019, which reads as follows:-

“Section 56 of the CGST Act clearly states that if any tax ordered to be refunded is not refunded within 60 days of the date of



receipt of application, interest at the rate of 6 per cent (notified vide notification No. 13/2017-Central Tax dated 28.06.2017) on the refund amount starting from the date immediately after the expiry of sixty days from the date of receipt of application (ARN) till the date of refund of such tax shall have to be paid to the applicant. It may be noted that any tax shall be considered to have been refunded only when the amount has been credited to the bank account of the applicant. Therefore, interest will be calculated starting from the date immediately after the expiry of sixty days from the date of receipt of the application till the date on which the amount is credited to the bank account of the applicant. Accordingly, all tax authorities are advised to issue the final sanction order in FORM GST RFD-06 and the payment order in FORM GST RFD-05 within 45 days of the date of generation of ARN, so that the disbursement is completed within 60 days.”

11. It is manifest that interest under Section 56 of the Act becomes payable, if on the expiry of the period of 60 days from the date of receipt of the application for refund, the amount claimed is still not refunded. Payment of interest under Section 56 of the Act being statutory is automatically payable without any claim, in case the refund is not made within 60 days from the date of receipt of the application. Payment of interest does not depend on the claim made by petitioner and therefore cannot be denied on the ground of waiver on the claim of interest in **FORM GST-RFD-01**. Moreover, the question of payment of grant of interest arises only if the refund is not granted within 60 days from the date of receipt of application. No justification has been shown by the respondent for delay in payment of refund within the stipulated period. Thus, even though, the petitioner may not have claimed interest in his refund applications, his claim of interest cannot be denied under Section 56 of the Act as the same is mandatory and payable automatically in terms of the provisions of the Act.



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12. In view of the above, we are of the opinion that petitioner is entitled to statutory interest at the rate of 6% starting from the date immediately after the expiry of sixty days from the date of receipt of refund applications till the date on which the refund is credited to the bank account of the petitioner. Respondent is accordingly directed to process the refund of interest and credit the same into the account of the petitioner within four weeks.

13. Petition is disposed of along with pending application.

RAVINDER DUDEJA, J.

SANJEEV SACHDEVA, J.

01 March, 2024

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