

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (T) No. 79 of 2020

Vandana Agro Industries Through Its Partner Shri Trilok Chand Jaiswal S/o Shri Ganpat Ram Jaiswal Aged About 62 Years H. No. 01, Thakurdiya Para, Main Road, Sakti District Janjgir Champa Chhattisgarh Pin 495686.

---Petitioner(s)

Versus

- 1.** Union of India Through The Secretary, Ministry Of Finance, Department Of Revenue (Central Board) Of Indirect Taxes And Customs) North Block New Delhi.
- 2.** Commissioner (Appeals) Office Of The Commissioners Appeal, Custom, Central Excise And Service Tax, Bhopal-II, Raipur Chhattisgarh.
- 3.** Assistant Commissioner Central GST And Central Excise Division-Bilaspur GST Bhawan, Vyapar Vihar, Near Aaykar Bhawan Bilaspur Chhattisgarh.

---Respondents

For Petitioner	:	Smt. Naushina Ali, Advocate.
For Respondent-1	:	Shri Himanshu Pandey under instructions of Shri B. Gopa Kumar, ASG.
For Respondent No.2 & 3	:	Shri Maneesh Sharma, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

21.08.2020

- 1.** The challenge in the present writ petition is to the order dated 17.04.2020 passed by the respondent No.3 rejecting the application of the petitioner for refund of the unutilized input tax credit under Section 54 of the Central Goods and Services Tax Act, 2017 (in short, GST Act, 2017).
- 2.** At the outset, this court is not inclined to entertain the writ petition for the reason that there is a statutory alternative remedy of appeal available to the petitioner.
- 3.** At this juncture, learned counsel for the petitioner submits that she has come directly to the writ court for the reason that the issue involved in the present writ petition is involving pure question of law and it is only an interpretation of a provision of law which needs to be considered and

therefore knowing fully well that there is a provision of appeal, the petitioner has approached this court.

4. Once when the statute provides for a remedy of an appeal, it is expected that the aggrieved person should avail the remedy of appeal as provided under the law. There is no reason why we should presume or have a notion that the appellate authority would not be able to appreciate the question of law or for that matter would not be able to give proper interpretation to law. The aggrieved person is expected to prefer an appeal supported with all relevant documents in support of the contentions and submissions that the petitioner intends to raise. On such grounds being raised supported with documents as also supported with judicial pronouncements of the Supreme Court and other High Courts, there is no reason why the appellate authority would not apply his mind while deciding the appeal taking into consideration those submissions.
5. Expecting the appellate authority to take a decision in accordance with law considering the submissions, contentions and the judgments cited by the appellant, the present writ petition at this juncture stands disposed of as not maintainable.

Sd/-
(P. Sam Koshy)
Judge