

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 04.09.2020
CORAM
THE HONOURABLE MR. JUSTICE M.S. RAMESH
W.P.No.28003 to 28005 & 28008 & 28011 of 2018

M/s.Jay Jay Mills (India) Pvt. Ltd.,
rep. by its Managing Director,
No.10, KVP Layout, Alangadu,
Karuvampalayam,
Tirupur-641 604.

... Petitioner in all W.Ps.

-Vs-

The State Tax Officer,
Special Circle-II,
Kongu Nagar, Tirupur.

..Respondent in all W.Ps.

PRAYER in W.P.No.28003 of 2018: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records of the respondent in the impugned order No.LF1/2017-2018/JUL 2017/SPL CIRCLE II/KONGU NAGAR (Form-GST-RFD-06) dated 04.06.2018 for July 2017, quash the same to the extent of denial of Refund of input tax credit as it is in violation the principles of natural justice and is contrary to Section 54(3) of CGST read with Section 16(3) of the Integrated Goods and Services Tax Act, 2017 (IGST Act) and Rule 92(3) Central Goods and Services Tax (CGST) Rules, 2017 and direct the respondent to sanction the refund claimed by the petitioner.

PRAYER in W.P.No.28004 of 2018: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records of the respondent in the impugned order No.LF1/2017-2018/AUG 2017/SPL CIRCLE II/KONGU NAGAR (Form-GST-RFD-06) dated 05.06.2018 for August 2017, quash the same to the extent of denial of Refund of input tax credit as it is in violation the principles of natural justice and is contrary to Section 54(3) of CGST read with Section 16(3) of the Integrated Goods and Services Tax Act, 2017 (IGST Act) and Rule 92(3) Central Goods and Services Tax (CGST) Rules, 2017 and direct the respondent to sanction the refund claimed by the petitioner.

PRAYER in W.P.No.28005 of 2018: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records of the respondent in the impugned order No.LF1/2017-2018/SEP 2017/SPL CIRCLE II/KONGU NAGAR (Form-GST-RFD-06) dated 06.06.2018 for September 2017, quash the same to the extent of denial of Refund of input tax credit as it is in violation the principles of natural justice and is contrary to Section 54(3) of CGST read with Section 16(3) of the Integrated Goods and Services Tax Act, 2017 (IGST Act) and Rule 92(3) Central Goods and Services Tax (CGST) Rules, 2017 and direct the respondent to sanction the refund claimed by the petitioner.

PRAYER in W.P.No.28008 of 2018: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records of the respondent in the impugned order No.LF1/2017-2018/OCT 2017/SPL CIRCLE II/KONGU NAGAR (Form-GST-RFD-06) dated 08.06.2018 for October 2017, quash the same to the extent of denial of Refund of input tax credit as it is in violation the principles of natural justice and is contrary to Section 54(3) of CGST read with Section 16(3) of the Integrated Goods and Services Tax Act, 2017 (IGST Act) and Rule 92(3) Central Goods and Services Tax (CGST) Rules, 2017 and direct the respondent to sanction the refund claimed by the petitioner.

PRAYER in W.P.No.28011 of 2018: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records of the respondent in the impugned order No.LF1/2017-2018/NOV 2017/SPL CIRCLE II/KONGU NAGAR (Form-GST-RFD-06) dated 11.06.2018 for November 2017, quash the same to the extent of denial of Refund of input tax credit as it is in violation the principles of natural justice and is contrary to Section 54(3) of CGST read with Section 16(3) of the Integrated Goods and Services Tax Act, 2017 (IGST Act) and Rule 92(3) Central Goods and Services Tax (CGST) Rules, 2017 and direct the respondent to sanction the refund claimed by the petitioner.

For Petitioner : Mrs.Radhika Chandrasekar
in all W.Ps

For Respondent : Mr.R.Swarnavel, GA (T)
in all W.Ps

C O M M O N O R D E R

With the consent of both the parties, the Writ Petitions are taken up today and heard through video conferencing.

2. The petitioner herein had exported Knitwear and Knitted Fabric, which amounts to zero-rated supply and in terms of Section 16(3) of the IGST Act, 2017, had applied for refund of ITC under Section 54 of the CGST Act, 2017. The applications were made for the periods of July, August, September, October and November 2017. The petitioner's claim came to be rejected through five impugned orders, which are challenged in these Writ Petitions. Since the issue involved in all the Writ Petitions are identical in nature, all these Writ Petitions are disposed of, through a common order.

3. Though the petitioner herein had raised several grounds challenging the impugned rejection orders, the learned counsel for the petitioner had predominantly stressed upon the ground that the rejection orders do not give reasons for inadmissibility of refund and therefore they are non speaking orders.

4. As rightly contended by the learned counsel for the petitioner, the respondent had, in a cryptic manner, rejected some of the proposals by stating that, as per Section 54 (8)(a), the ineligible goods or services are not directly used for making zero-rated supply. Apart from this, there is absolutely no other reasons adduced in the order.

5. It is a settled proposition of law that whenever an application of this nature is made, the statutory authority are bound to consider the claim made and pass a reasoned order. In the present case, the petitioner had made an application for refund under Section 54 of the Act and when the respondent had issued notice to them for rejection of the ineligible goods and services of SGST, CGST and IGST, they have given a detailed reply, objecting to the notices. All these objections were required to be dealt with by the authority, before taking a final call, which is conspicuously absent. As such, the order itself can be termed to be "a non speaking order" and therefore, are liable to be set aside. However, if the respondent is granted an opportunity to pass fresh orders, after considering the objections of the petitioner, the ends of justice could be secured.

6. In the light of the above observations, the impugned orders are set aside and the matter is remanded back to the respondent for fresh consideration. The petitioner is at

liberty to give fresh objections, atleast within a period of 15 days from the date of receipt of a copy of this order. On receipt of such objections, the respondent herein shall consider all the objections raised by the petitioner and extend due opportunity of personal hearing and thereafter pass appropriate orders, in accordance with law, as expeditiously as possible, in any event, within a period of 60 days from the date of receipt of the petitioner's objections. All the Writ Petitions are disposed of accordingly. No costs.

Sd/-

Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

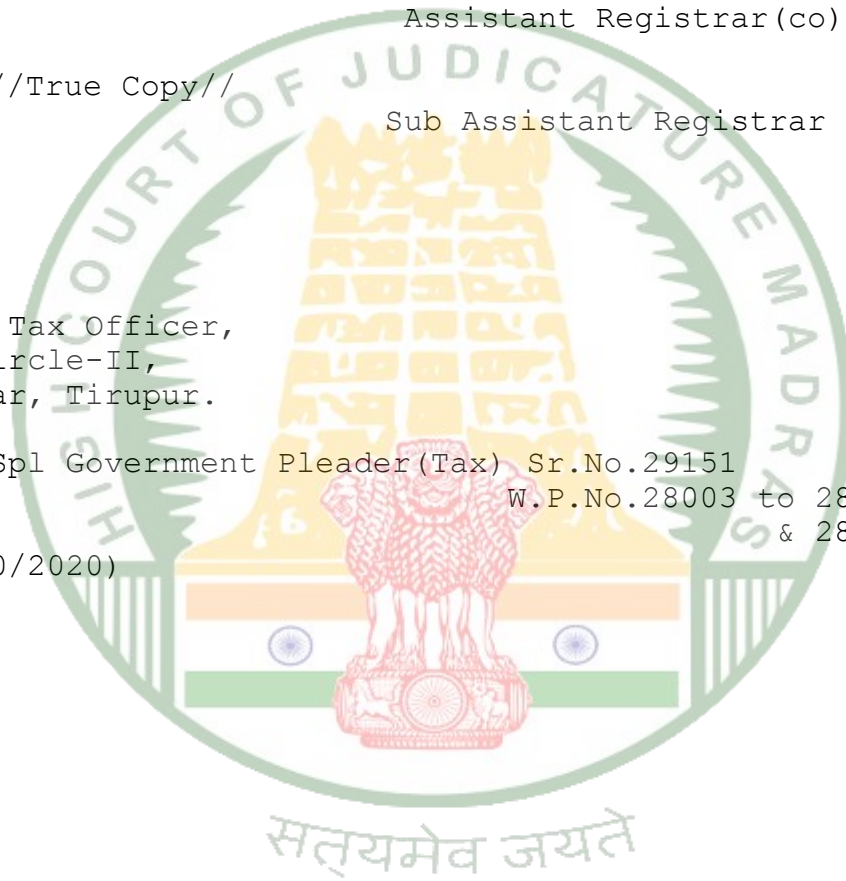
DP
To

The State Tax Officer,
Special Circle-II,
Kongu Nagar, Tirupur.

+1 cc to Spl Government Pleader(Tax) Sr.No.29151

W.P.No.28003 to 28005 & 28008
& 28011 of 2018

A.SK(16/10/2020)



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