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

+ W.P. (C) 8844/2020

M/S. S.H. EXPORTS

..... Petitioner

Through: Mr. Priyadarshi Manish, Advocate
with Ms. Anjali J. Manish and
Mr. Ritaj Kacker, Advocates.

versus

COMMISSIONER OF CGST & ANR.

..... Respondents

Through: Ms. Sonu Bhatnagar, Advocate
with Ms. Venus Mehrotra,
Ms. Anushree Narain and
Mr. Vaibhav Joshi, Advocates.

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Date of Decision: 11th November, 2020

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MR. JUSTICE SANJEEV NARULA

J U D G M E N T

MANMOHAN, J (Oral):

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed by the petitioner seeking a direction to the respondents to release the refund qua the refund applications filed by it in respect of export for the months of July and August, 2019.
3. Mr. Priyadarshi Manish, learned counsel for the petitioner states that procured goods had been exported under Section 16 of Integrated Goods and Services Tax Act, 2017 (for short 'IGST Act') as zero rated

supply without payment of IGST against LUT for the months of July and August 2019 and the petitioner is entitled for the refund of input tax credit, which had been paid as GST on the said goods at the time of procurement.

4. He further states that the petitioner had removed all the discrepancies/deficiencies with regard to July, 2019 refund pointed out by the Assistant Commissioner, GST Delhi South Commissionerate vide deficiency memo dated 30th August, 2019. He emphasises that the Assistant Commissioner, Division Naraina acknowledged the receipt of all requisite information vide acknowledgment dated 17th September, 2019.

5. He also states that the petitioner had filed refund application for the month of August, 2019 on 19th March, 2020. However, as the status of said application was not shown on the portal, the petitioner re-applied for the said refund by way of online application on 9th May, 2020.

6. He submits that Sections 54 and 56 of the Central Goods and Services Tax Act, 2017 and Rules 90 and 91 of the Central Goods and Services Tax Rules, 2017 provide a complete code with regard to acknowledgement, scrutiny and grant of refund within a strict time frame. In support of his submission, he relies upon judgment of this Court in ***Jian International Vs. Commissioner of Delhi Goods and Services Tax, W.P. (C) 4205/2020***.

7. Issue notice.

8. Ms. Sonu Bhatnagar, learned counsel accepts notice on behalf of the respondents.

9. Ms. Sonu Bhatnagar has screen shared with us a copy of the letter dated 10th November, 2020 written to her by the Assistant Commissioner, Naraina Division. The said letter reads as under:-

*“C.No. DL/GST-South/Naraina/R-52/Refund/SH Export /329
/2019/7759*

Dated-10.11.2020

To

*Ms. Sonu Bhatnagar,
Sr. Advocate
Hon’ble High Court,
New Delhi*

Madam,

*Sub- WPC filed by M/s. S.H. Exports v. Commissioner of
CGST & Ors.-reg.*

*Kindly refer to the query vide mail dated
09.11.2020 on the subject cited above*

*2. In this regard, kindly note that the DGGI,
Ahmedabad has booked a case for fraudulent availment
/passing of ITC against M/s S.H. Exports consequent to that
they have directed to put on hold the refund of M/s. S.H.
Exports. The case is still under investigation.*

*This issues with the approval of the Pr.
Commissioner.*

Yours faithfully,

Sd/-

*(Sandeep K. Singh)
Assistant Commissioner
Naraina Division”*

10. She also states that another letter dated 10th November, 2020 has been written by Assistant Commissioner, Naraina Division to the

petitioner informing it of an opportunity of personal hearing on 17th November, 2020 at 12:00 noon under Section 54(11) of the CGST Act, 2017 before the Principal Commissioner of CGST Delhi, South Commissionerate. The said letter reads as under:-

*“C.No. DL/GST-South/Naraina/R-52/Refund/SH Export /329
/2019/7758*

Dated-10.11.2020

To

*M/s S.H. Exports
H. No.236, Satya Niketan, Moti Bagh-2,
Chanakyapuri, New Delhi-110021.
(GSTIN:07AQIPG3048E1Z4)*

Dear Sir,

*Sub- Refund claims filed by M/s. S.H. Exports for the
months of July-2019 & August-2019-reg.*

Kindly refer to the above cited subject

2. In this regard, I am directed to inform you that an opportunity for personal hearing with respect to refund claims filed by you has been fixed under Section 54(11) of the CGST Act, 2017 before the Principal Commissioner of CGST Delhi South Commissionerate in his office chamber situated at 3rd Floor, EIL Annexe Building, Bhikaji Cama Place, New Delhi-110066 on 17th November, 2020 at 12:00 Hrs

3. You or your authorized representative(s) are requested to appear before the Pr. Commissioner on the schedule date and time.

*Yours faithfully,
Sd/-
(Sandeep K. Singh)
Assistant Commissioner
Naraina Division”*

11. Keeping in view the aforesaid facts, learned counsel for petitioner wishes to withdraw the present writ petition with liberty to also challenge the two letters dated 10th November, 2020.

12. With the aforesaid liberty, present writ petition stands disposed of.

13. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

SANJEEV NARULA, J

NOVEMBER 11, 2020

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नित्यमेव जयते