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

Date of Decision : 08th December, 2020

\+ W.P.(C) 6233/2020

KANODIA OIL MILLS ..... Petitioner

Through: Mr. Vineet Bhatia, Advocate.

versus

UNION OF INDIA & ORS. ..... Respondents

Through: Mr. Harpreet Singh, Senior Standing Counsel for R-2 & R-5

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

D.N.PATEL, Chief Justice (*Oral*)

The proceedings in the matter have been conducted through video conferencing.

1. This writ petition has been preferred for the following prayers:

> "a) *Issue a writ of mandamus or any other writ, order or direction of like nature to the Respondents, directing the Respondent to accept and process the refund application of Rs.10,76,690/- of the Petitioner.*
>
> *b) Issue a writ of mandamus or any other writ, order or direction of like nature to the Respondents, directing the Respondent to alternatively process the*

already manually submitted refund application of Rs.10,76,690/-of the Petitioner.

c) Issue a writ of mandamus or any other writ, order or direction of like nature thereof declaring that the restriction placed on the common portal for claiming the refund is contrary to the CGST Act and the CGST Rules and therefore should be removed from the common portal.

d) Issue a writ of mandamus or any other writ, order or direction in the nature thereof declaring para 37 and 38 of the Circular No.125/44/2019-GST dated 18.11.2019 as ultra vires the statutory provisions in as much as the said circular imposes a condition that is nowhere prescribed in the CGST Act or the CGST Rules.

e) Issue a writ of mandamus or any other writ, order or direction in the nature thereof directing the Respondents to permit the Petitioner to file its refund applications for the period subsequent to September, 2017 and further direct the Respondents to process the refund application and grant refund to the Petitioner, in accordance with law.

f) Pass such further and other orders, as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case."

2. At the outset, learned counsel appearing for the petitioner submitted that the grievances ventilated in the petition about the non-acceptance of the refund claim for the period running from May, 2018 to September, 2018 for Rs.10,76,690/- does not remain in existence as the respondent has now accepted the refund application. Therefore, he

submitted that a suitable direction be given to the respondent to decide the refund claim of this petitioner for Input Tax Credit (ITC) as stated in the memo of this petition and as stated in the refund application within a stipulated time. The remaining prayers are not pressed at this stage. It is further submitted by learned counsel for the petitioner that liberty may be reserved with this petitioner to file appropriate proceedings for rest of the prayers in case the refund application is not allowed by the respondent. The said proceedings may be permitted to be initiated before the appropriate forum in accordance with law.

3. In view of the aforesaid submission, the respondents are directed to decide the refund application as expeditiously as possible and practicable in accordance with law, rules, regulations and government policies applicable to the fact of the case.

4. Liberty is reserved with this petitioner to the effect that litigation can be initiated by this petitioner before the appropriate forum in accordance with law, if the refund claim is not accepted by the respondent,.

5. With these observations, this writ petition is hereby disposed of.

CHIEF JUSTICE

PRATEEK JALAN, J.

DECEMBER 08, 2020

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