

PMB

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7226 OF 2021

Holcim Services (South Asia) Ltd. ..Petitioner

vs.

The Union of India and ors. ..Respondents

Mr. Prasad Paranjape a/w Mr. Mihir Mehta i/b. Lumiere Law
Partners for petitioner.

Smt. N.M. Mehra, AGP for respondent nos.2, 3 and 4-State.

**CORAM : DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE: NOVEMBER 25, 2021

P.C.:

1. This writ petition is directed against an order rejecting a claim for refund.
2. Mr. Paranjape, learned advocate for the petitioner urges twofold grounds: (i) the order was passed without granting opportunity of hearing to the petitioner; and (ii) the order is unreasoned. He, accordingly, prays for setting aside the order impugned and for a direction on the officer concerned to consider the claim for refund afresh.

3. Ms. Mehra, learned AGP appearing for the State places before us the relevant records. It appears from the records that certain notices were sent to the petitioner calling upon it to attend hearing on diverse dates, but since it did not turn up, the impugned order was passed.

4. We are of the view that inviting affidavits from the respondents would only delay a proper decision on the petitioner's claim for refund. In our considered view, a post decisional hearing would serve the cause of justice. Accordingly, we direct the concerned officer to issue a notice of hearing within seven days from date. Copy of such notice shall also be served on the petitioner's learned advocate. A date of hearing shall be fixed within December 10, 2021. The petitioner shall be at liberty to raise all points that are available to it in law and produce all documents in support of the claim for refund. The concerned officer shall proceed to decide the claim of the petitioner uninfluenced by the fact that the claim has once been rejected. If the concerned officer is of the view that the order of rejection of the refund claim should be

maintained, he shall furnish appropriate reasons in support of his order. On the contrary, if the petitioner succeeds in persuading the officer concerned to change his view and if refund is allowed, follow up steps shall be taken without any delay.

5. It would be desirable if the order, in terms of this order, is passed as early as possible but not later than ten days from the date of hearing.

6. The writ petition is disposed of. No costs.

7. All contentions are left open.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)