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

\+   W.P.(C) 7475/2021 & CM APPL. 23486/2021

MEDICAL BUREAU ..... Petitioner

Through: Mr.Rajesh Mahna, Mr.Ruchir Bhatia, Mr.Ramanand Roy, Ms.Archana Wadhwa, Mr.Mayank Kouts, Mr.Shiva Narang & Mr.Akshay Bhatia, Advs.

versus

COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX DELHI NORTH & ANR. ..... Respondent

Through: Mr.Harpreet Singh, Sr. Standing Counsel for R-1 & R-2 with Ms.Suhani Mathur, Adv.

% Date of Decision: 02nd August, 2021

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE NAVIN CHAWLA

JUDGMENT

MANMOHAN, J: (Oral)

1. The hearing has been conducted through video conferencing.

2. Present writ petition has been filed seeking direction to the Respondent to refund to the petitioner the amount of Rs.1,35,30,255/-, being unutilized input tax credit for the months of October 2017 to July 2018 along with interest thereon.

2. Learned counsel for the Petitioner states that the present Petition arises on account of the failure of the Respondents to issue the refund due to the petitioner under the provisions of the Integrated Goods & Services Tax

Act, 2017 and the Central Goods & Services Tax Act, 2017 [CGST Act] resulting on account of exports made by the Petitioner out of India which are termed as 'Zero rated supplies' in GST.

3. He states that the Petitioner is engaged in the business of purchase and exports of pharmaceutical products. He adds that the Petitioner was registered with the Trade & Taxes Department under VAT and on the enforcement of Goods and Services Tax Act, the Petitioner migrated to the said system of taxation as provided in Section 139 of the Central and Delhi Goods and Services Tax Act, 2017.

4. He emphasises that the exports done by the Petitioner out of India are zero rated and therefore, in terms of Section 16 of the Integrated Goods and Services Tax Act, 2017 [IGST Act], the Petitioner is entitled to make exports on letter of undertaking and consequently, claim refund of unutilized input tax credit or in the alternative make exports on payment of integrated tax (IGST) and thereafter, claim refund of such tax paid on exported goods.

5. He points out that in terms of Section 16 (1) of the IGST Act, the supplies made by the Petitioner were "zero rated supplies" and the Petitioner became entitled to the refund of unutilized input tax credit as per Section 16 (3) of the IGST Act read with Section 54 of the CGST Act.

6. He states that the Petitioner has made available all the details for processing of refund to the Respondents and hence, there is no reason or ground whatsoever for the Respondents to sit over the refund of the Petitioner and deny the same.

7. He emphasises that the Petitioner ought to have been allowed 90% of the refund on Provisional basis and the remaining amount within sixty days as per Section 54 sub-section (6) and (7) of the CGST Act.

8. Issue notice. Notice is accepted by Mr.Harpreet Singh, senior standing counsel on behalf of the respondents. He prays for some time to file a counter affidavit. However, keeping in view the limited direction that we intend to pass, we are of the view that no counter affidavit is required.

9. Having perused the paper book, we find that the Petitioner's refund applications being GST RFD-01A have not been disposed of till date. Consequently we direct the original Adjudicating Authority to decide the said refund applications within a period of six weeks in accordance with law in particular the judgment passed by this Court in ***Medical Bureau vs. Commissioner of Central Goods and Services Tax Delhi North & Ors.***, being WP(C) 3917/2020 dated 10th November, 2020. With the aforesaid direction the present petition along with pending application stands disposed of.

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

MANMOHAN, J

NAVIN CHAWLA, J

AUGUST 2, 2021/*rv*

Signature Not Verified
Digitally Signed
By:KRISHNA BHOJ
Signing Date:04.08.2021
22:17:44