

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

WRIT PETITION NO. 1225 OF 2023

Principal Global Services Pvt. Ltd.)...Petitioner
V/s.

The State of Maharashtra & Others)...Respondents

Mr. Prakash Shah a/w. Mr. Mihir Mehta and Mr. Jas Sanghavi
i/b. PDS Legal, Advocate for the Petitioner.
Smt. S.D.Vyas, 'B' Panel Counsel, for the Respondent-State.

**CORAM : NITIN JAMDAR AND
ABHAY AHUJA, JJ.**

DATE : 29 MARCH 2023

P.C.

By this Petition, the Petitioner has challenged the order dated 22 April 2022 passed by the Respondent no.2 Deputy Commissioner of Sales Tax, Pune. By the order dated 22 April 2022, the Respondent no.2 rejected the prayer of refund sought for by the Petitioner.

2 The Petitioner had filed an application for refund of Rs.7,53,20,729/- on 11 January 2022 on account of refund of Input Tax Credit (ITC) on Export of Goods and Services

without payment of Integrated tax. The Deputy Commissioner of Sales Tax scrutinized the application and having found discrepancies, issued a show cause notice to the Petitioner. The Petitioner replied to the show cause notice. The Deputy Commissioner rejected the application for refund observing thus :

“1. First query was regarding difference in turnover of rupees 3648911/-. This difference was between the turnover as per returns and as per actual books. As per the submission the difference is due to difference in conversion rates of foreign exchange, prevailing. The contention is accepted.

2. Iowa State -

The invoices show the export of services to recipient located in Iowa State of United States. However, no such state exist in United States.

The dealer has submitted that this is a “typo error”. Actual name of the state should be Iowa (iowa). He requested to accept the submission.

However the request is not acceptable. Typo error can only be committed rarely. Where as in this case dealer’s each invoice has mentioned the same name of the state, that is Iowa. Also this is an export of services and not goods. Hence no any other evidences of exports such as dispatch proofs has been produced by the dealer. Hence invoice being foremost important document in the export of services, the defective address of the recipient cannot be ignored.”

3 We have heard the learned Counsel for the parties.

4 Bare perusal of the reasoning of the Deputy Commissioner would indicate that the Deputy Commissioner has given emphasis to the spelling of a State in the United States of America mentioned in the invoices produced by the Petitioner. The invoices mention the State as Iowa. According to the Petitioner it is a typographical error and it should have been Iowa. The Deputy Commissioner has found that this explanation is not acceptable as there is no State as Iowa in the United States. Though certain secondary reasons are given, the predominant reason is that there being no State as Iowa in United States, the documents i.e. invoices produced by the Petitioner cannot be accepted and hence there is no proof of export of services.

5 The learned Counsel for the Petitioner submitted that on the face of it, the invoices contain typographical error, as even the Deputy Commissioner accepted that there is no such State named Iowa in United States and the invoices should have mentioned Iowa State. The learned Counsel submitted that the Petitioner had produced other evidences apart from the invoices to demonstrate that services were provided to entities in Iowa. The learned Counsel has also submitted that as for the period prior to the one in question, the Deputy

Commissioner had granted refund on identical facts and circumstances.

6 The learned Counsel for the Respondents tendered reply affidavit and has sought to add more grounds than contained in the reasoning produced above. The learned Counsel for the Respondents submitted that considering the magnitude of the refund sought, the Deputy Commissioner was careful in scrutinizing of the documents and having found that the typographical error had to be corrected by the Petitioner and not by the Deputy Commissioner, rejected the refund application and there is no error in the same. The learned Counsel for the Respondents states that there are other grounds on which the Petitioner is not entitled to refund.

7 As regards the position of the invoices mentioning Iowa State in the United States of America is concerned, we find that there is an obvious typographical error as there is no such State in the United States. The corresponding name to that place is Iowa State, and therefore, the explanation of the Petitioner is plausible and should have been considered by the Deputy Commissioner. Therefore, we are of the opinion that with this finding / correction the Deputy Commissioner needs to examine the Refund Application made by the Petitioner afresh,

also examine the evidence that is produced by the Petitioner in addition to the invoices and take a decision.

8 The impugned order dated 22 April 2022 passed by the Respondent no.2 Deputy Commissioner of Sales Tax, Pune, is quashed and set aside. The application of the Petitioner for refund is restored to the file of the Deputy Commissioner.

9 It is open to the Petitioner to supply additional documents in support of its claim for refund. During the hearing the Petitioner would also keep the originals of the documents to enable the Deputy Commissioner to scrutinize and ascertain the veracity thereof. The Deputy Commissioner would give personal hearing to the Petitioner and will make an endeavour to dispose of the application within a period of twelve weeks. The period of twelve weeks will come into effect from the date the order is uploaded.

10 The Writ Petition is allowed in the above terms.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)

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