IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.10.2023

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.6638 of 2022

M/s.Focus Trading Enterprises,
Represented by its Proprietor,
Shri Ramachandran Selvaraj,
60-71, CNK Road, Chepauk,
Chennai 600 005.

... Petitioner

Vs.

1.The Joint Commissioner of GST Appeals I
O/o.The Commissioner of GST & Central Excise (Appeals I)
No.26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

2.The Deputy Commissioner of GST & Central Excise,
Triplicane Division,
No.26/1, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.

... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order in appeal No.19-26/2022 (GSTA-I)(JC) dated 27.01.2022 passed by the first respondent and quash the same and direct the 2nd respondent to sanction the refund of unutilised input tax credit claimed by the petitioner for the period April 2018 to December 2018 along with applicable interest.

For Petitioner : Mr.Hari Radhakrishnan

For Respondent : Mr.V.Sundareswaran,
Senior Standing counsel

ORDER

This writ petition has been filed challenging the impugned order passed by the first respondent rejecting the revised claims made by the petitioner on 24.01.2021, 27.01.2021 and 07.02.2021.

2. The learned counsel for the petitioner would submit that the petitioner is an Exporter and since he had utilised the input credit, he filed the applications for refund of amount in terms of provision of Section 54(3) of the Central Goods and Services Tax Act, 2017 (hereinafter called as “the Act”) originally on 11.02.2020, 15.02.2020 and 18.02.2020 pertaining to the period of April to October 2018,

November 2018 and December 2018 respectively. Further, he would submit that the refund claims came to be filed within a period of two years from the date of deposit in terms of Section 54(1) of the Act and the same were well within the prescribed period of limitation. However, all these claims were returned to the petitioner stating that there were some defects and further, the petitioner was directed to file fresh returns by virtue of the order dated 20.02.2020 passed by the respondent. Thereafter, the petitioner had filed the revised returns on 25.02.2021, 27.01.2021 and 07.02.2021. However, the said revised returns were came to be rejected by virtue of rejection order dated 27.01.2022 on the ground that it is barred by limitation in terms of Section 54(1) of the Act.

3. It was further submitted by the learned counsel for the petitioner that in M.A.No.29 of 2022, vide order dated 10.01.2022, the Hon'ble Supreme Court had held that the period between 15.03.2020 to 28.02.2022 shall be excluded for computation of period of limitation under any general or special laws in respect of all judicial or quasi-judicial proceedings. Pursuant to the same, a notification was also issued

by the Department, which was circulated by the respondent on 05.07.2022, wherein it has been stated that the period from 01.03.2020 to 28.02.2022 shall be excluded for computation of period of limitation for filing refund application under Section 54 or 55 of the Act. Hence, he would contend that the said rejection order has been passed without any application of mind.

4. The learned counsel for the respondent would fairly submit that the aforesaid notification was not considered by the first respondent while passing the impugned order and hence, he requests this Court to pass appropriate order.

5. Heard the submissions made by the learned counsel for the petitioner and the respondent and also perused the materials available on record.

6. In the present case, the original refund applications were filed on 11.02.2020, 15.02.2020 and 18.02.2020, which were well within the

prescribed time limit. However, those applications were returned since the same had some defects. Hence, the revised refund applications were filed by the petitioner on 25.02.2021, 27.01.2021 and 07.02.2021. However, the said revised refund applications were also came to be dismissed by virtue of impugned order on the ground that they were barred by limitation.

7. On perusal of records, it is clear that the impugned order was passed without considering the aforesaid order passed by the Hon'ble Supreme Court as well as the notification dated 05.07.2022 issued by the Department, wherein it has been stated the period from 01.03.2020 to 28.02.2022 shall be excluded for computation of period of limitation for the purpose of filing refund application under Section 54 of the Act.

8. In view of the above, this Court is inclined to set aside the impugned order passed by the first respondent and further, direct the second respondent to process the revised refund applications filed by the petitioner and pass appropriate orders by taking into consideration of the

order passed by the Supreme Court and the aforesaid notification issued by the Department, within a period of 30 days from the date of receipt of copy of this order after providing the opportunity to the petitioner.

9. With the above direction, this writ petition is disposed of.

13.10.2023

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
nsa

KRISHNAN RAMASAMY.J.,
nsa

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