IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: **06.01.2023**

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THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.No.34283 of 2022

PEINER SMAG MACHINERY (INDIA) PRIVATE LIMITED
Represented by its Director
Krishnamurti Chidambaram
Plot No.A-24 Engineering SEZ
SIPCOT Industrial Complex, Phase-III
Ranipet – Ponnai Road (SH 124A)
Ranipet – 632 405 ... Petitioner

Vs.

Assistant Commissioner of Customs
4th Floor, IGST Refund Section
Chennai Commissionerate
Custom House, Chennai – 600 001 ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus directing the respondent to dispose of the petitioner representation dated 01.06.2019 for refund of IGST amount in a time bound manner.

For Petitioner : Mr.N.Murali

For Respondents : Mr.J.Vasu
Junior Panel Counsel (CBIT and Customs)

ORDER

This order will now dispose of the captioned writ petition.

2. Mr.N.Murali, learned counsel for sole writ petitioner and Mr.J.Vasu, learned Junior Panel Counsel (CBIT and Customs) on behalf of lone respondent are before this Court.

3. Owing to the short point on which the captioned writ petition turns, main writ petition was taken up with the consent of learned counsel on both sides.

4. This order has to be read in conjunction with and in continuation of earlier proceedings made by this Court in the listing on 22.12.2022, which reads as follows:

'The simple point in captioned writ petition is, a refund application dated 01.06.2019 (filed on 10.06.2019) under Section 54 of 'The Central Goods and Services Tax Act, 2017' [hereinafter 'C-G&ST Act' for the sake of convenience and clarity] is pending from 2019 is learned counsel's say.

2. Learned counsel for petitioner is permitted to serve *on the learned Standing counsel for sole respondent.*

3. Registry to show the name of learned State counsel in the next listing.

*4. List after Christmas Vacation. List on 04.01.2023.' *

5. Learned counsel for writ petitioner adverting to the refund application dated 01.06.2019 submits that the petitioner-company is engaged in the business of manufacturing of rope grabs, motor grabs and other variants of grabs including hydraulic grabs and most of the finished goods are exported. It was further submitted by learned counsel that with the advent of the GST regime, the writ petitioner opted 'Integrated Goods and Services Tax' [I-G & ST] vide Integrated Goods and Services Tax Act, 2017 as they did not have Letter of Undertaking and the refund sought for is qua zero rated sales made to overseas purchases (exports). It may not be necessary to delve into facts further owing to the simple prayer that is innocuous.

6. It will suffice to say that the aforementioned refund application dated 01.06.2019 was followed by as many as four reminders dated 19.07.2019, 29.07.2019, 05.12.2019 and 31.10.2022. It is rather intriguing that a simple refund application under Section 54 'Central

Goods and Service Tax Act, 2017' ['C- G & ST Act' for the sake of brevity and convenience] has been kept pending for such length of time.

7. Be that as it may, captioned writ petition is disposed of with a directive to the sole respondent to consider, process and make orders in the refund application of writ petitioner dated 01.06.2019 as expeditiously as the business of the sole respondent would permit and in any event within four weeks from today i.e., on or before 10.02.2023.

8. Before concluding this Court deems it appropriate to scan and reproduce the refund application that has been placed before this Court. A scanned reproduction of the refund application dated 01.06.2019 is as follows:

PEINER SMAG
Lifting Technologies

PEINER SMAG MACHINERY (INDIA) PRIVATE LIMITED

01st Jun2019 13

To

The Assistant / Deputy Commissioner of Customs,
Customs Commissionerate,
Customs House,
Chennai

Sir/Madam,

Sub: Submission of related annexure as per Rule 96 of CGST rules read together with CBIC Circular no 37/11/2018-GST dated 15.03.2018.

Ref: Our GSTIN 33AAGCP1024N1ZJ - M/s Peiner Smag Machinery (India) Private Limited

We export goods (Hydraulic Grab, Variants of Grabs and their spares/components) to various customers located outside India. We opted to pay IGST (as we did not hold Letter of Undertaking) for such zero rated supplies made by us in July 2017 and August 2017. We make applications for refund of such IGST paid by us for the months –July 2017 and August 2017.

Disclosure in the GSTRs

GSTR 3B

IGST of Rs. 29,24,972/-in July 2017 - In Column 3.1(a) - Outward taxable supplies - out of which Rs. 23,80,420/- was pertaining to Export of Goods.

IGST of Rs. 41,35,360/- in August 2017 - In Column 3.1(a) - Outward taxable supplies - out of which Rs. 28,31,425/- was pertaining to Export of Goods.

We have included Zero Rated Supplies made by us as Outward taxable supplies in Column 3.1(a) of Form GSTR-3B for above tax periods. A Certificate by a Chartered Accountant (as required by CBIC Circular No 12/2018 - Customs Dated 29th May 2018) certifying correctness of above mentioned facts is attached herewith.

GSTR 1

IGST of Rs. 23,80,420/- in July 2017 - In Table 6A - Outward supplies (Zero Rated)
IGST of Rs. 28,31,425/- in August 2017 - In Table 6A - Outward supplies (Zero Rated)

As per Rule 96 (1) of CGST Rules 2017, "Shipping bill filed by an exporter of goods shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India."Accordingly, Refund in Form RFD-01A is not applicable.

SMAG
GROUP COMPANY

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PEINER SMAG MACHINERY (INDIA) PRIVATE LIMITED

PSI PEINER SMAG Lifting Technologies

We attach herewith the following for processing our refund claim -

(i) Copy of Form GSTR - 3B & GSTR -1 for Jul & Aug'17
(i) Copy of Tax Invoices, Shipping bills & BRC Copies w.r.t. to which refund is being claimed
(ii) Copy of Electronic Cash Ledger evidencing that above mentioned amounts are duly paid
(iv) Cancelled cheque to which refund should be credited
(v) CBIC Circular No 12/2018-Customs dated 29th May 2018
(vi) Certificate by Chartered Accountant certifying correctness of facts

We request your good self to issue the refund as early as possible in line with the provisions of Rule 96 of CGST Rules 2017.

Kindly do the needful and oblige.

Thanking you,
For Peiner Smag Machinery (India) Private Limited

P. Sahoo

Mr.Prasant Kumar Sahoo
Manager- Finance & Accounts

9. The decision on the refund application shall be indicated to the writ petitioner under due acknowledgement within five workings days from the date of the decision.

Captioned writ petition disposed of in the aforesaid manner. There shall be no order as to costs.

06.01.2023

Index: yes/no
Speaking / Non-speaking
Neutral Citation : Yes / No
gpa

To

Assistant Commissioner of Customs
4th Floor, IGST Refund Section
Chennai Commissionerate
Custom House, Chennai – 600 001

M.SUNDAR, J.,

gpa

W.P.No.34283 of 2022

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