BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.9369 of 2023

KA Prevulcanised Latex Pvt. Ltd.,
Rep., by its Director,
Mr.Praveen Mathew,
13/1-423, M.S.Road,
Parvathipuram, Nagercoil,
Kanyakumari District. .. Petitioner

Vs.

1.The Government of Tamil Nadu,
Rep., by its State Tax Officer,
Department of Commercial Taxes,
Commercial Taxes Integrated Building,
5th Floor, Nandanam, Chennai.

2.The Assistant Commissioner of CGST
and Central Excise,
O/o.The Assistant Commissioner of CGST
and Central Excise,
Tirunelveli Division, Central Revenue Buildings,
Tractor Road, NGO A Colony,
Tirunelveli District. .. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the 2nd respondent to disburse the sanctioned refund amount of 90% of the Central Goods and Service Tax (CGST) and Integrated Goods and Service Tax (IGST) amount paid by the petitioner against the Export of goods for the year 2017-2018 (August, September, October and December, 2017) pursuant to the sanction orders issued by the 1st respondent dated 09.04.2019, 09.04.2019, 10.04.2019 and 11.04.2019 respectively within the period that may be stipulated by this Court.

For Petitioner	:	Mr.H.Jasima Yasmin for M/s.Ajmal Associates
For Respondents	:	Mr.R.Nandakumar Senior Panel Counsel assisted by Ms.S.Ragavendre Junior Standing Counsel

ORDER

This writ petition is filed for the issue of a Writ of Mandamus, directing the 2nd respondent to disburse the sanctioned refund amount of 90% of the Central Goods and Service Tax (CGST) and Integrated Goods and Service Tax (IGST) amount paid by the petitioner against the Export of goods for the year 2017-2018 (August, September, October and December, 2017) pursuant to the sanction orders issued by the 1st respondent dated 09.04.2019, 09.04.2019, 10.04.2019 and 11.04.2019 respectively.

2. It is the case of the petitioner that they have been exporting their products viz., natural rubber based prevulcanised latex since its inception. With the introduction of GST with effect from 01.07.2017, the petitioner was entitled to get refund of Input Tax Credit available in the electric credit ledger against their exports. Accordingly, the petitioner had applied for refund of integrated tax , central tax and state tax for the months of August to December, 2017-2018 through the online portal. The petitioner would submit that pursuant to this communication, they have received the state tax in the year 2018 and 10% of the central tax (CGST) and integrated tax (IGST) in the year 2019. However, they have not received 90% of the CGST and IGST, portion of refund amount to date. The first respondent has provisionally sanctioned the refund vide its provisional refund orders dated 05.06.2018, for the months of August and September, 07.06.2018 for the month of October and 12.06.2018 for the month of December as per Rule 91(2) of the Central Goods and

Service Tax Rules, 2017. Final orders have also been passed as set out in the tabulated statement given below:

Month Due	Date	Sanction Order	Refund of IGST	Refund of CGST
Aug, 2017	09.04.2019	Order No.170904190215021	Rs.17,852/-	Rs.1,21,356/-
Sep, 2017	09.04.2019	Order No.170904190215030	Rs.57,598/-	Rs.1,40,723/-
Oct, 2017	10.04.2019	Order No.171004190215865	Rs.44,867/-	Rs.1,31,230/-
Dec, 2017	11.04.2019	Order No.1711104190216827	Rs.728/-	Rs.16,854/-

3. Pursuant to the sanction orders, the petitioner had also submitted their bank authorisation details. However, the same is yet to be refunded to them, despite several demands. Therefore, the petitioner has approached this Court.

4. Heard the learned counsel for the parties.

5. Admittedly, the first respondent has sanctioned refund both by virtue of the provisional refund orders and the final orders sanctioning the refund. The second respondent has not only failed to respond to the request of the petitioner, but even before this Court, they have not been able to give any reason as to why the refund is not made despite orders of the first respondent. These amounts are rightfully due to the petitioner. Therefore, this writ petition is allowed. The second respondent is directed to refund the amount due to the petitioner within a period of four weeks from the date of receipt of a copy of this order, if not otherwise paid. No costs.

24.04.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

abr

P.T.ASHA, J.

abr

To

1.The State Tax Officer,
Department of Commercial Taxes,
Commercial Taxes Integrated Building,
5th Floor, Nandanam, Chennai.

2.The Assistant Commissioner of CGST
and Central Excise,
O/o.The Assistant Commissioner of CGST
and Central Excise,
Tirunelveli Division, Central Revenue Buildings,
Tractor Road, NGO A Colony,
Tirunelveli District.

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