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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 2212 of 2024

M/s. Health Care Happiness Private Limited
Versus
Union of India & Ors.

Ms. Disha Guruswamy
Ms. Pooja Sah
Ms. Ajeyaa Chowdhury
... For the petitioner.

Mr. Bhaskar Prosad Banerjee
Ms. Aishwarya Rajyashree
... For CGST & CX authorities.

Mr. Anirban Ray, Ld.GP
Mr. T. M. Siddiqui
Mr. Tanoy Chakraborty
Mr. Saptak Sanyal

... For the State.

1. The present writ petition has been filed, inter alia, praying for a direction upon the respondents to re-credit the rejected amount in respect of the refund applications.
2. The petitioner claims to have filed six several applications for refund for the period from October, 2018 to March, 2019, for the excess balance of cash in the electronic cash ledger. The applications filed by the petitioner were rejected by six separate orders as per the following particulars:

Date of filing	ARN Generated	Rejection Order	Amount (Rs.)
10 December 2018	AA191218008738W	3 December 2019	61,088
21 December 2018	AA1912180276913	30 November 2019	9,399,382
19 January 2019	AA190119021946Z	30 November 2019	3,383,887
21 February 2019	AA1902190238532	30 November 2019	3,864,441

22 March 2019	AA1903190243828	2 December 2019	2,871,038
28 April 2019	AA190419035870Y	3 December 2019	2,630,363

3. The petitioner is aggrieved by the fact that while rejecting the petitioner's application, the entire amount that was refundable had been adjusted by the respondents.

4. When the aforesaid writ petition was moved, this Court by an order dated 2nd September, 2024, was inter alia pleased to direct the concerned respondents to file a short report as regards the statement made by the petitioner in paragraphs 11 and 12 of the writ petition.

5. Today, pursuant to the order passed on 17th September, 2024, Mr. Arka Prabha Banerjee, CGST officer, is present in Court along with the report, which is taken on record.

6. From the aforesaid report it would transpire that the refund claims on account of "*excess balance in electronic Cash Ledger*" was rejected by the Department for non-submission of relevant records but inadvertently in the portal the tab relating to "*amount adjusted against outstanding demand under the existing law or under the Act*" was activated, which resulted in getting the aforesaid applications disposed

of from the system. It would, further transpire from the aforesaid report that the respondents have claimed that by reasons of inadvertent error, the aforesaid incorrect adjustment had taken place. The respondents submit that it is not rectifiable from their end since, there is no corrective mechanism available within the online system. The respondents, however, acknowledge the fact that in terms of Rule 87 (11) of the CGST Rules, 2017, (hereinafter referred to as the "said Rules") the amount of refund which stands rejected needs to be re-credited to the corresponding electronic cash ledger. Since, there is no procedure available on the portal to re-credit the aforesaid amount, Mr. Banerjee, learned advocate appearing on behalf of the respondents, CGST & CX, on instruction, would submit that the respondents are ready and willing to refund the said amount to the petitioner subject to the petitioner making an application.

7. Having regard to the aforesaid and taking note of the fact the amount that was debited by the petitioner while making the application for refund from its electronic cash ledger under Rule 89(10) of the said Rules was required to be credited to the electronic cash ledger on rejection of the application, due to inadvertent error, had been adjusted, I grant liberty to the petitioner to file an application before the

respondent no.3, manually within a period of three weeks from date applying for refund.

8. In the event such application is filed, the concerned respondent shall, within three weeks from the date of filing such application, process the same and refund entire amount, which had been adjusted, to the petitioner.

9. Since, it has been admitted by the respondents that there was no outstanding demand against which the aforesaid purported adjustment was made, consequential steps taken by the respondents to adjust the aforesaid amount against the purported outstanding demand stands quashed.

10. With the above observations and directions, the writ petition is disposed of.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)