16.07.2024
Item No.11
gd/ssd

FMA/877/2024
M/S. SILK & RAYON PRIVATE LIMITED (SLS TEXTILES) A PRIVATE LIMITED COMPANY
VS
UNION OF INDIA AND ORS.
IA NO: CAN/1/2024

Mr. Rajesh Kumar Mishra,
Mr. Sourojit Mukherjee,
Mr. Sutirtha Das
..for the Appellant.

Mr. K.K. Maiti,
Mr. Tapan Bhanja,
Mr. Saurov Mallick
..for CGST Authorities.

1. By consent of the learned advocates appearing for the parties, the writ petition as well as the appeal are disposed of by this common judgment and order.

2. The order impugned in this appeal is dated 4th April, 2024 by which the learned Single Bench declined to grant any interim order and directed affidavits to be filed.

3. The short issue involved in this appeal is whether the appellant is entitled for refund.

4. This aspect has not been disputed by the department and the only ground in which the deficiency memo was issued on the ground that "re-credit of refund amount to ITC ledger not permitted by system". In the deficiency memo dated 22.11.2023 the appellant has been advised to file a fresh refund

application after rectification of the deficiency is pointed out.

5. As mentioned earlier the department does not dispute the fact that double payment has been made by the appellant.

6. In this regard, the learned advocate for the appellant has drawn our attention to a certificate given by the Central Tax Audit Department dated 03.11.2023 by which the appellant has been intimated regarding the several DRC-03's have been taken into account as payment made towards demand raised in the GST Audit Observation dated 21.04.2023.

7. Thus, when the department does not dispute the fact that double payment has been made by the appellant, the appellant would be entitled for refund of the excess amount paid. The only technical deficiency appears to be that re-credit of refund amount to ITC ledger is not permissible in the computer system.

8. In the light of the above facts, the appellant is directed to file a fresh refund application in the appropriate form and on receipt of the same the authorities shall accept the application and refund the excess tax paid/recovered by the appellant within a period of three weeks from date on which the application is filed. This application should be processed under the "other refund category".

9. Accordingly, the writ petition and the appeal stand disposed of.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)