03.10.2024
Item No.
AD 5
Saswata

W.P.A. 19890 of 2024

Abhishek Ramisetty
versus
Commissioner of Central Goods and Services Tax,
Howrah CGST & CX Commissionerate & Anr.

Mr. Jishnu Chowdhury
Mr. Shreyash Basu Dasgupta
...For the petitioner
Mr. Uday Shankar Bhattacharya
Mr. Tapan Bhanja
...For the respondents

1. The present writ petition has been filed, inter alia, praying for a direction upon the respondents to process the refund applications mentioned in paragraph 8 of the writ petition and to refund a sum of Rs.1,l1,92,037/- which according to the petitioner is refundable having regard to the provisions contained in Section 54 of the WBGST /CGST Act, 2017 (hereinafter referred to as the "said Act").

2. When the instant writ petition was moved, on 29th September,2024 Mr. Chowdhury, learned advocate appearing for the petitioner had, inter alia, contended that despite making three separate applications for refund in Form GST RFD – 01 for the period from April 2020 to March 2021, April 2021 to March 2022 and from April 2022 to March 2023, the respondents did not upload the deficiencies in Form GST RFD – 03. According to him, the portal indicates deficiency memoranda in Form GST RFD – 03, without actual deficiencies being uploaded, has caused prejudice to the petitioner, thereby preventing the petitioner from taking corrective steps.

3. In the backdrop as aforesaid and after hearing the respective parties and upon ascertaining from the learned advocate appearing for the respondents that deficiency memoranda in Form GST FRD – 03 had been uploaded on the portal, though the particulars thereof could not be identified by the learned advocate for the respondents, this Court by order dated 30th September 2024 had directed the concerned officer of the respondent to be present before this Court along with the records.

4. Today, the records in connection with the aforesaid proceeding have been produced before this Court. Mr. Bhattacharya, learned advocate appearing for the respondents, by relying on the records submits that the declarations as required to be filed by the petitioner in terms of Form GST RFD – 01 as required under the second proviso to Sections 54(3) and Section 54(3)(ii) of the said Act have not been filed along with the applications. By referring to the records and by placing a copy thereof before this Court, he also submits that in the Annexure B to the application the concerned statement of invoices as submitted along with the application for refund of utilized ITC under the head "*Category of input supplied",* the particulars of the code numbers which are required to be reflected under "HSN/SAC", are missing.

5. It is also submitted that annexure-1 statement 1 in terms of Rule 89(5) of the WBGST /CGST Rules, 2017 (hereinafter referred to as the "said Rules") and statement 1A in terms of Rule 89(2)(h) of the said Rules as per the form notified were also required to be filed, have not been filed. Mr. Bhattacharya submits that unless a proper

application along with all supporting documents as indicated above are filed, the petitioner's application cannot be said to be in order and for reasons as aforesaid, the deficiency memoranda in Form GST RFD – 03 had been issued. He submits that since, there are no options available in the portal to identify the exact deficiencies, the respondents had selected the option "*supporting documents attached are incomplete*".

6. Mr. Chowdhury, on the other hand submits that in absence of the disclosure of the deficiencies, which are statutorily required to be disclosed in terms of Rule 90(3) of the said Rules, it had become extremely difficult for the petitioner to take corrective steps.

7. Having heard the learned advocates appearing for the respective parties, I am of the view, since the respondents have now identified the deficiencies in Court, today, which are now on record, there cannot be any impediment for the petitioner to refile the application in proper form. The petitioner is thus, permitted to take appropriate steps in this regard and file proper applications. If any such applications, in Form GST RFD – 01 are now filed by the petitioner by taking corrective steps in terms of the aforesaid order within a period of 6 weeks from date, the proper officer shall process the same within a period of 8 weeks thereafter, by treating the deficiencies to have been communicated to the petitioner in Court today.

8. The records as placed before this Court are returned to Mr. Bhattacharya, by retaining a photocopy of the same.

9. With the above observations and directions, the writ petition being WPA 19890 of 2024 is accordingly disposed of.

10. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

(*Raja Basu Chowdhury, J.*)