IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12096 OF 2024

Indace Chem India Private Limited ...Petitioner
Versus
Union Of India And Ors ...Respondents

Mr. Prasannan Namboodiri i/b Ms Pratibha Namboodiri and Mr. P. S. Patkar for petitioner.
Mr. Ram Ochani a/w Ms Sangeeta Yadav for Respondents.

CORAM : K. R. SHRIRAM &
JITENDRA JAIN, JJ.
DATED : 3rd SEPTEMBER 2024

P.C. :

1 Petitioner has approached this court aggrieved by the rejection of petitioner's request by respondent no.7 to re-credit the Input Tax Credit (ITC) of Rs.36,81,790/- in petitioner's Electronic Credit Ledger (ECL). Petitioner says it has deposited the erroneous refund amount of Rs.36,81,790/- along with interest of Rs.11,99,075/- and penalty of Rs.3,68,179/-. Petitioner is only seeking a direction to respondents to re-credit ITC of Rs.36,81,790/- in the ECL of petitioner in terms of sub-Rule (4B) in Rule 86 of the CGST Rules 2017 read with Circular No.174/06/2022-GST dated 6th July 2022.

2 At the outset, Mr. Namboodiri states that petitioner could have filed the appeal to the GST Tribunal but there is no Tribunal in place. Mr. Namboodiri states at this moment, petitioner is only seeking re-credit of

the amount of Rs.36,81,790/- which it has deposited in the ECL of petitioner and thereafter, as and when the Tribunal is made functional, petitioner would file an appeal and alongwith appeal deposit 20% of the remaining amount of tax in dispute as prescribed under Section 112(8)(b) of the CGST Act 2017. Mr. Namboodiri states the amount of Rs.36,81,790/- that has been paid, though under protest, is the amount in full, which in any case, could be held against petitioner as excess refund claimed.

3 Mr. Ochani, after the petition was heard for sometime, stated if any amount has been deposited which petitioner claims is in excess, i.e., Rs.36,81,790/-, certainly that amount has to be reflected on the credit side of petitioner's ECL. The ECL shall be re-credited within one week from the date this order is uploaded.

4 In view of the statement made by Mr. Ochani, Mr. Namboodiri states that petitioner will file an appeal within four weeks of a notification of constitution of the Tribunal being issued and alongwith filing of appeal, shall also deposit 20% as prescribed under Section 112(8)(b) of the CGST Act 2017. Statement accepted as an undertaking to this court.

5 Until four weeks of the notification of formation of the Tribunal, no coercive steps shall be taken by respondents against petitioner.

6 Petition disposed.

(JITENDRA JAIN, J.) **(K. R. SHRIRAM, J.)**