Darshan Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 17038 OF 2024

Maschio Gaspardo India Private Limited and Anr. …Petitioners

Versus

Central Board of Indirect Taxes and Customs and Ors. …Respondents

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Mr Rahul Sarda, i/b Mr Akshay Pawar, for the Petitioners.
Mr Karan Adik, a/w Adv Mamta Omle, for Respondents 2 and 3.

CORAM: M.S. Sonak & Jitendra Jain, JJ.

DATED: 25 November 2024

PC:-

1. Heard learned counsel for the parties.

2. The petitioners, in the shipping bills filed by them applied for refund. Since this refund was not processed, the petitioners addressed letters dated 06 January 2020, 25 May 2021, 18 August 2021 and 08 April 2024 for refund along with interest on such refund amounts. However, till date, the competent authority has not processed and disposed of these applications for refund and interest. Hence, the petitioners have filed this petition seeking directions to the competent authority to dispose of such applications within a time-bound schedule of 4 weeks.

3. Mr Adik, learned counsel for respondents 2 and 3 states that such applications would be disposed of within 4 weeks from today after giving the petitioners a personal hearing and passing a reasoned order. He further submits that the correct authority to sanction IGST refunds is the GST Authority.

4. Mr Sarda learned counsel for the petitioners, however, relies on circular dated 23 February 2018 (Exhibit 'P' at pages 134 to 138 of the paperbook) to submit that respondents 2 and 3 would be the appropriate authority.

5. Accordingly, we direct respondents 2 and 3 to dispose of the petitioners' applications in accordance with law and on their own merits within 4 weeks in terms of the statement made on their behalf. If respondents 2 and 3 are of the opinion that GST Authorities are the appropriate authorities after hearing the petitioners and considering the circular relied upon by the petitioners, respondents 2 and 3 shall transfer such applications to the appropriate GST Authorities. Even the appropriate GST Authorities should then dispose of the petitioners' applications within 4 weeks from their receipt after hearing the petitioners and passing a reasoned order.

6. We clarify that we have not gone into the issue of whether respondents 2 and 3 or the GST Authorities would be the appropriate authorities.

7. This petition is disposed of in the above terms without any cost orders.

8. All concerned to act on the authenticated copy of this order.

(Jitendra Jain, J) **(M.S. Sonak, J)**