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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 4639 OF 2024

Portescap India Pvt. Ltd. …Petitioner

Versus

Union of India and ors. …Respondents

Adv Bharat Raichandani, a/w Adv Jasmine Dixit i/b. UBR Legal, for the Petitioner.

Ms Jyoti Chavan, Addl.G.P., a/w Ms Nazia Shaikh, AGP a/w Mr Amar Mishra, AGP, for the Respondent-State.

Adv Megha Bajoria, Adv Valentine Mascarenhas, Adv Abhinav Palsikar, Adv Ashita Aggarwal i/b. Adv Subir Kumar, for the Respondents.

CORAM M.S. Sonak &
Jitendra Jain, JJ.
DATED: 13 November 2024

PC:-

1. Heard learned counsel for the parties.

2. The Petitioner filed applications at Exhibits "A-1," "A-2," and "A-3" in 2014 seeking refunds. To date, the applications have not been processed.

3. The matter was adjourned so that the learned counsel for the Respondents could state the timeline within which these applications would be disposed of. At that time, this

Court did not realise that the applications were made in 2014 and thought they had been pending for two or three years.

4. Today, learned counsel for the Respondents stated that the applications would be disposed of within eight weeks. Considering that they have been pending since 2014, we direct that they be disposed of in accordance with the law and on their own merits within four weeks from today.

5. Since interest on refunds is required to be granted from the date of the applications, if ultimately any refund and interest thereon are found payable, then we direct the CGST Commissioner to inquire into the causes of the pendency of these applications for the last ten years. The officers responsible for this delay must be held accountable, and necessary steps should also be taken to recover the additional amounts that would have to be paid to the Petitioner on account of this inordinate delay from such officers.

6. Ultimately, it must be noted that the officers are only trustees. If, on account of reasons attributable to them, the assesses are harassed, the public exchequer is forced to suffer and is drained, then the principles of accountability require that such officers compensate the assesses and the public exchequer. This is in addition to any departmental proceedings that would have to be initiated against such officials.

7. By an order dated 28 May 2018, in the context of application at Exhibit “A-4”, the Commissioner (Appeals) allowed the Petitioner’s Appeal to the extent of claimed amount of Rs.4,91,880/- being refund of Service Tax paid on or after 1 March 2011. However, the matter was remitted to the Original Adjudicating Authority to verify the claimed amount's correctness in the light of the Notification dated 1 March 2011.

8. Though no time limit was set for verification, it was expected that it would be completed within a reasonable period of two to three months. The Original Adjudicating Authority has not bothered to verify and comply with the Commissioner (Appeals) order dated 28 May 2018 for six years, which is entirely unacceptable.

9. Accordingly, we also direct the concerned Original Adjudicating Authority to comply with the directions in the order dated 28 May 2018 within four weeks from today. We further direct the Commissioner, GST, to investigate the matter, determine the reasons for this inordinate delay, and fix responsibility on the concerned official/s. After assigning responsibility, the loss to the public exchequer must be recovered from the officer/s concerned.

10. We direct that the Commissioner, GST, undertake this exercise of holding enquiries and fixing responsibilities, consistent with the principles of natural justice and fair play and after following the usual procedures. However, this exercise must be completed within three months from today, and the Commissioner, GST, must file a compliance report in this Court giving full particulars and details.

11. We dispose of this Petition by issuing the above directions. But the Commissioner, GST must file a compliance report in this Court, giving full particulars and details on or before 15 February 2025.

12. All concerned to act on an authenticated copy of this order.

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