



WEB COPY



W.P.No.11991 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2024

CORAM

THE HON'BLE MR.JUSTICE SENTHILKUMAR

RAMAMOORTHY

W.P.No.11991 of 2024

Indian Potash Limited,
Represented by its authorized signatory,
R.Srinivasan, aged 58,
S/o.R. Rajagopalan,
684-690, 1st Floor,
Seethakathi Business Centre,
Anna Salai, Chennai -6.

... Petitioner

Versus

1.Deputy Commissioner (ST),
GST Appeal,
GST First Appellate Authority,
Chennai,Tamil Nadu.

2.Assistant Commissioner (Circle),
Anna Salai,
No.1, PAPJM Annex Building, 4th Floor,
Greens Road, Chennai-600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Mandamus directing the first respondent to accept the Appeal bearing acknowledgment No.AD330621002335Q filed by the petitioner by treating the date of filing of Appeal on GST Portal



W.P.No.11991 of 2024

i.e.18.06.2021 as the date of filing of Appeal and pass orders in accordance with law and in light of order of the Hon'ble Supreme Court in the case of *Union of India v. Mohit Minerals*, Civil Appeal No.1390 of 2022 dated 19.05.2022.

For Petitioner : Ms. T. Shrayashree
for Mr.Harish Bindumadhavan

For Respondents : Mrs.K.Vasanthamala
Government Advocate (Tax)

ORDER

In this writ petition, the petitioner seeks a direction to the first respondent to accept the appeal by treating the date of filing of the appeal as 18.06.2021.

2. In the above case, refund rejection order was issued against the petitioner in relation to claim for refund of IGST on ocean freight. The appeal was presented on 18.06.2021 before the appellate authority. As per Rule 108(3) of applicable GST Rules, the petitioner was required to file a hard copy of the impugned order within seven days of presentation of the appeal. This requirement was not complied with until 02.02.2024.



W.P.No.11991 of 2024

WEB COPY

3. Learned counsel for the petitioner relied on a judgment of this Court in *M/s.PKV Agencies v. The Appellate Deputy Commissioner (GST) (Appeals), Vellore, (PKV Agencies), 2023 (2) TMI 932* to contend that Rule 108(3) is a purely procedural requirement and that the appeal is required to be processed provided the appeal was filed within time. Apart from pointing out that the impugned order is available with the appellate authority, learned counsel further submits that the question of refund of IGST on ocean freight was decided by several High Courts, including this Court. In those circumstances, learned counsel submits that great prejudice would be caused to the petitioner unless the appeal is processed.

4. Mrs. K. Vasanthamala, learned Government Advocate, accepts notice for the respondents. She points out that the appeal was not processed on account of the petitioner not filing the physical copy of the impugned order.

5. In *PKV Agencies*, this Court followed the judgment of the Orissa High Court in *M/s.Atlas PVC Pipes Ltd. v. State of Odisha, (PVC Pipes Ltd.) 2022 (7) TMI 130*. In effect, the Court concluded that the non-



W.P.No.11991 of 2024

WEB COPY

production of the hard copy of the impugned order is only a technical defect and that the appeal is required to be processed provided the appeal was filed within time. In the case at hand, the refund rejection order was issued on 19.03.2021 and the appeal was lodged on 18.06.2021. As such, the appeal was filed within time limit prescribed by statute. In those circumstances, the ratio of PKV Agencies is applicable. Therefore, this writ petition is disposed of by directing the first respondent to process the appeal by not rejecting the same on the ground that the physical copy of the impugned order was filed on 02.02.2024. If the appeal is otherwise in order, the first respondent is directed to number the appeal within one month from the date of receipt of a copy of this order.

6. This writ petition is disposed of on the above terms. There shall be no order as to costs.

04.06.2024

Index : No
Speaking Order
Neutral Case Citation : No

klt



W.P.No.11991 of 2024

WEB COPY

- To
1. Deputy Commissioner (ST),
GST Appeal,
GST First Appellate Authority,
Chennai, Tamil Nadu.
 2. Assistant Commissioner (Circle),
Anna Salai,
No.1, PAPJM Annex Building, 4th Floor,
Greens Road, Chennai-600 006.



WEB COPY



W.P.No.11991 of 2024

SENTHILKUMAR RAMAMOORTHY,J

klt

W.P.No.11991 of 2024

04.06.2024