



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 03.06.2024

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P.Nos.12101, 12103 & 12105 of 2024

In all Writ Petitions

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
Subramani Suresh

... Petitioner

-VS-

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



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PRAYER in W.P.No.12101 of 2024: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus directing the 1st Respondent to accept the Appeal bearing acknowledgment No.AD330621002342V filed by the Petitioner by treating the date of filing of Appeal on GST Portal i.e.18.06.2021 as the date of filing of Appeal and pass Orders in ccordance 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.

PRAYER in W.P.No.12103 of 2024: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus directing the 1st Respondent to accept the Appeal bearing acknowledgment No.AD330621002340Z filed by the Petitioner by treating the date of filing of Appeal on GST Portal i.e.18.06.2021 as the date of filing of Appeal and pass Orders in ccordance 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.

PRAYER in W.P.No.12103 of 2024: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus directing the 1st Respondent to accept the Appeal bearing



acknowledgment No.AD3306210023091I filed by the Petitioner by treating the date of filing of Appeal on GST Portal 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.

In all WPs

For Petitioner : Ms.T.Shrayashree
for Mr.Harish Bindumadhavan
E.Manoharan, A.Murali,
Ojas Sivakumar, Keerthana Mahesh

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

COMMON ORDER

In these three writ petitions, the petitioner seeks a direction to the first respondent to accept the respective appeals by treating the date of filing the appeal as 18.06.2021.

2. In the above cases, refund rejection orders were issued against the petitioner in relation to claims for refund of IGST on ocean freight. All three appeals were 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.

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 appeals are processed.



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4. Ms.K.Vasanthamala, learned Government Advocate, accepts notice for the respondents. She points out that the appeals were not processed on account of the petitioner not filing the physical copy of the impugned orders.

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*, 2022 (7) TMI 130. In effect, the Court concluded that the non-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 cases at hand, the refund rejection orders were issued on 19.03.2021 and the appeals were lodged on 18.06.2021. As such, the appeals were filed within time limit prescribed by statute. In those circumstances, the ratio of PKV Agencies is applicable. Therefore, these writ petitions are disposed of by directing the first respondent to process the respective appeals by not rejecting the same on the ground that the physical copy of the



impugned orders were filed on 02.02.2024. If the appeals are otherwise in order, the first respondent is directed to number the appeals within one month from the date of receipt of a copy of this order.

6. W.P.Nos.12101, 12103 & 12105 of 2024 are disposed of on the above terms. No costs.

03.06.2024

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
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1. Deputy Commissioner (ST),
GST Appeal,
GST First Appellate Authority,
Chennai, Tamil Nadu.
2. Assistant Commissioner (Circle),
Anna Salai,
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SENTHILKUMAR RAMAMOORTHY J.

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