IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.10.2024

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

W.P.No.29256 of 2024

M/s.Regal Engineers & Contractors Pvt Ltd.,
Represented by its Director M Pari
No.3 Kundrathur Main Road,
Gerugambakkam,
Chennai- 600 122. ... Petitioner

versus

Assistant Commissioner of CGST & CE,
Pallavaram Division,
Chennai Outer Commissionerate,
III Floor, Guna Complex No.445,
Anna Salai, Teynampet,
Chennai- 600 018. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the Respondent to process therefund application filed vide ARN AA331017993212E dated 22.02.2018 and sanction the refund along with interest.

For Petitioner : Ms.K.Aarthy

For Respondent : Ms.Revathi Manivannan
Senior Standing Counsel

O R D E R

This writ petition has been filed seeking for a direction to the Respondent to process the refund application filed vide ARN AA331017993212E dated 22.02.2018 and sanction the refund along with interest.

2. Ms.Revathi Manivannan, learned Senior Standing Counsel takes notice on behalf of the Respondent.

3. By consent, this Writ Petition is taken up for final disposal at the stage of admission itself.

4. The petitioner concern is engaged in the business of civil contracting works and registered under GST vide GSTIN 33AAHCR7067C1ZG. During the course of the business, the Petitioner has supplied goods to M/s Vishay Precision Transducers India Pvt Ltd. which is a Special Economic Zone (SEZ) unit in the month of October, 2017 for the taxable value of Rs. 27,50,408/- and paid Rs. 4,95,073/- towards IGST.

5. Learned counsel for the petitioner would submit that as per Section 16 of IGST Act, 2017 the supplies made to SEZ unit are treated as Zero Rate Supplies. As per Section 54 of CGST Act, 2017 read with Section 20 of IGST Act, 2017, any taxpayer making a zero rated supply, can claim refund the of the tax paid by them on the Zero Rated Supplies. Therefore, having paid the IGST tax, the Petitioner has filed a refund application dated 22.02.2018 in form RFD-01 vide ARN No. AA331017993212E claiming for refund of Rs. 4,95,073/- since they made zero rated supplies. He pointed out that as per Section 54 of CGST Act, 2017 refund claim should be made within a period of 2 years from the relevant date and the petitioner has made application for refund within the stipulated time, i.e. on 22.02.2018. However, as there was no response from the respondent for more than a year, the Petitioner, vide letter dated 29.03.2019, requested the respondent for processing their refund application and enclosed all the relevant documents, viz., copy of invoice issued to SEZ unit, GSTR-3B and GSTR-1 filed for October, 2017 and declarations. Even after this, the petitioner has not received any communication from the respondent and thereafter, the Petitioner also did not follow up with the department as regards their refund application.

Later, on 17.04.2023, the petitioner once again requested the respondent for processing their refund application. Subsequently, on 26.05.2023, the petitioner received a letter from Superintendent (Technical) Pallavaram Division, stating that they have already sent a Deficiency Memo in Form GST RFD 03 dated 12.04.2019, calling upon the petitioner to rectify certain deficiencies mentioned therein.

6. Learned counsel for the petitioner would submit that no such Deficiency Memo has been received by the petitioner and the petitioner came to know the same only when the Superintendent (Technical) Pallavaram Division enclosed the same with his letter dated 26.05.2023. He would further submit that a representative of the petitioner concern approached the respondent on 09.06.2023 and requested to process the refund application on rectification of the deficiencies mentioned in the Deficiency Memo, however, the petitioner was informed by the respondent that time limit for processing the refund application has expired and hence, it cannot be processed. Hence, the learned counsel seeks a direction to the respondent to process the refund application made by the petitioner.

7. Ms.Revathi Manivannan, learned Senior Standing Counsel appearing for the respondent would submit that since the petitioner has not rectified the deficiencies pointed out in the Deficiency Memo dated 12.04.2019 in time by the petitioner, their application for refund of the tax, has not been processed.

8. It is to be noted that initially, the petitioner has made application well within time, i.e. on 22.02.2018, claiming refund of the tax under Section 54 of CGST Act, 2017 followed a reminder letter dated 29.03.2019, but the respondent has not processed the same, but after a lapse of more than one year, they issued a Deficiency Memo on 12.04.2019 calling upon the petitioner to rectify certain deficiencies mentioned therein. According to the petitioner, they had not received the said Deficiency Memo and they came to know only when they received a letter dated 26.5.2023 from the respondent. Therefore, since the petitioner has made the application claiming refund of the tax within the time, which was not processed by the respondent more than a year, this Court is of the view that it would be appropriate to direct the respondent

to process the application without insisting limitation aspect and pass orders therein.

9. Accordingly, the respondent is directed to process the refund application dated 22.02.2018 filed by the petitioner and pass appropriate orders in accordance with law, after giving an opportunity of hearing to the petitioner, within a period of four (4) weeks from the date of receipt of a copy of this order. No costs.

10. With the above directions, this writ petition is disposed of. No costs.

14.10.2024

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No
arr/suk

To

Assistant Commissioner of CGST & CE,
Pallavaram Division,
Chennai Outer Commissionerate,
III Floor, Guna Complex No.445,
Anna Salai, Teynampet,
Chennai- 600 018.

KRISHNAN RAMASAMY.J.,

arr/suk

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