BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD)No.21854 of 2022
&
W.P.(MD).No.16015 of 2022

A.Shaik Dawood ... Petitioner

Vs.

1.The Office of the Commissioner of
GST and Central Excise, (Appeals),
Coimbatore, Circuit Office at Trichy, No.1,
Wiliams Road, Cantonment, Trichy-620 001

2.The Asst Commissioner of GST
and Central Excise, Central Excise -I
Division, Trichy, B Wing, 1st Floor, No.1,
Wiliams Road, Cantonment, Trichy-620 001 ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 1st respondent vide his proceedings in A.No. 74/2021-TRY(GST) dated 27.9.2021 and quash the same and direct the 2nd respondent to refund of a sum of amount of Rs.8, 82,824/-(CGST - Rs. 2, 81, 981, SGST – Rs.2,81,981 and IGST - Rs.3,18,862).

For Petitioner : Mr.M.Killivalavan

For Respondent : Mr.N.Dilip Kumar, Standing Counsel

ORDER

Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 1st respondent vide his proceedings in A.No. 74/2021-TRY(GST) dated 27.9.2021 and quash the same and direct the 2nd respondent to refund of a sum of amount of Rs.8, 82,824/-(CGST - Rs. 2, 81, 981, SGST – Rs.2,81,981 and IGST - Rs.3,18,862).

2. The petitioner is aggrieved by the impugned order in Appeal No. 132/2021-TRY (GST) in Appeal No.74 of 2021-TRY(GST). By the impugned order, the 1st respondent has dismissed the appeal filed by the petitioner against order in Original dated 03.05.2020 bearing Ref.No.ZZ3305210010873. The petitioner has exported about six consignments of goods out of country and therefore claimed refund U/s.54 of the CGST Act, 2017. AS per Sec.54 of the CGST Act,2017 the refund claim has to be filed by the exporter two years from the date of shipment.

3. In this case, the exports were made by the petitioner between

24.04.2018 to 25.022019. IT is evident that the last date for filing the refund claim would have expired at the time when the country was under partial/intermittent/full lockdown due to outbreak of Covid-19 pandemic from third week of March 2020. The Hon'ble Supreme Court taking note of this earlier extended the perIod of limitation. Taking note of the same, the Central Government also promulgated an ordinance called Taxation and Other Laws (Relaxation and Amendment of Certain Provisions) Ordinary 2020, which was replaced by TOLA Act 2020. The Central Government has now issued notification No.13/2022-Central Tax dated 15.07.2022. By virtue of the above notification, the period from 1st day of March 2020 to 28th of February 2022 for computation for period of limitation for filing refund claim U/s.54 or under 55 of the CGST Act 2017 has been excluded.

4. It is noticed that neither the 1st respondent nor the 2nd respondent had the benefit of the above notification when the orders were passed. Under these circumstances, impugned order dated 27.09.2021 in n order Appeal No.182 of 2021 TRY GST dated 27.09.2021 in A.No.74 of 2021-TYR GST upholding the rejection of the refund claim vide order dated 03.05.2022 of the 2nd respondent are set aside and the case is remitted

back to the 2nd respondent to reconsider the petitioner's refund claim afresh in the light of the above mentioned notification. Since the exports were made by the petitioner between 2018 to February 2019 it is expected that the 1st respondent will pass a fresh order on the refund claims of the petitioner filed on 01.04.2021 as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order. Needless to state petitioner may be called for a hearing in case there are any doubts warranting rejection of the refund claim.

5. Writ Petition stands allowed with the above observation. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

17.04.2024.

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
kpr

To

1.The Office of the Commissioner of
GST and Central Excise, (Appeals),

Coimbatore, Circuit Office at Trichy, No.1,
Wiliams Road, Cantonment, Trichy-620 001

2.The Asst Commissioner of GST
and Central Excise, Central Excise -I
Division, Trichy, B Wing, 1st Floor, No.1,
Wiliams Road, Cantonment, Trichy-620 001

C.SARAVANAN, J.

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W.P.(MD)No.21854 of 2022

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