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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 8470/2024

M/S ZED CONTROL SYSTEM AND SWITCHGEAR .....Petitioner

Through: Mr. Vasdev Lalwani, Mr. Mukul Gautam & Mr. Mohit Gautam, Advs.

versus

CHIEF COMMISSIONER, CENTRAL GOODS AND SERVICE TAX, (DELHI ZONE) & ANR. .....Respondents

Through: Mr. Jatin Singh, Adv. for Resp./ UOI.
Mr. Akshay Amritanshu, SSC with Mr. Samyak Jain, Ms. Drishti Saraf & Ms. Pragya Upadhyay, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **15.10.2024**

1. This writ petition has been preferred seeking the following reliefs:

> "(a) Issue a Writ of declaration or any other Writ, Order or directions directing the respondents to issue/credit the refund of Rs. 7,51632/- (IGST tax Rs. 3,75,816/- + IGST penalty Rs. 3,75,816/-) as per the provision of SGST/CGST Act.
>
> (b) Grant interest on refund amount of Rs. 7,51632/- (IGST tax Rs. 3,75,816/- + IGST penalty Rs. 3,75,816/-) as petitioner is legally entitled for the same as per section 56 of SGST/CGST Act.
>
> (c) Grant exemplary damages to the petitioner as the respondents had acted in malafide and colourable exercise of power in withholding the refund.
>
> (d) Grant any other relief as deemed fit in the circumstances of the case."

2. Although we had granted time to the respondents to file a reply, no counter affidavit has been placed on the record. Bearing in mind the limited nature of the grievance which stands raised in the writ petition, we find no justification to defer disposal of the present writ petition.

3. From the facts that emerge on the record, it would appear that the goods of the petitioner firm were detained by the Proper Officer of State Tax, Sonepat and during those proceedings the petitioner had deposited sums of INR 7,51,632/- along with penalty. The aforesaid deposit comprised of the **Integrated Goods and Service Tax**[1] liability of INR 3,75,816/- and a penalty of INR 3,75,816/-.

4. Aggrieved by the detention, a statutory appeal came to be preferred before the Additional Commissioner of State Tax on 26 October 2021. That appeal came to be allowed with the appellate authority holding as follows:

> "In any tax administration the provisions for inspection, Search, Seizure and Arrest are provided to protect the interest of genuine taxpayers (as the Tax evaders, by evading the tax, get an unfair advantage over the genuine taxpayers) and as a deterrent for tax evasion. These provisions are also required to safeguard the Government's legitimate dues. Thus, these provisions act as a deterrent and of checking for evasion of tax to provide a level playing field to genuine taxpayers. In the present case, the appellant has produced/submitted documentary evidence in support of his contentions. The law depends on the factual evidence. The transaction and accompanying documents should be genuine and proper. In this impugned transaction, the documents are valid though are proper though minor discrepancy of timings of the generation of the e-way bill which does not call for invocation of section 129 of the Act by the Proper Officer. Moreover, the proper officer has not established any contravention or evasion of tax in the present case.

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[1] IGST

> **In the light of the above discussions & legal provisions, I hereby accept the appeal and set aside the impugned order being devoid of merits.** The Proper Officer is directed to ensure compliance by the taxpayer of the section of 17 (5) (i) of the CGST Act 2017. The DETC State Tax, Sonepat is directed to intimate the concerned jurisdictional of the taxpayers concerned with the present transaction as per the rule 136 of the CGST Rules, 2017. APL-04 is being issued with the order."

It is thereafter that the petitioner filed the applications for a grant of refund.

5. Those applications have come to be rejected by the respondents who have cursorily observed that the supporting documents which were attached along with the application are "incomplete". It is pertinent to note that apart from what appears on the screen-shot which has been enclosed and which carries the recital noted hereinabove, no other notice or communication has apprised the petitioner of the further documentation which may have been required by the respondents for the purposes of considering the application for refund.

6. We bear in consideration the undisputed fact that the application for refund itself was founded on the order of the appellate authority which has since then attained finality. We note that in terms of Rule 89(2) of the Central Goods & Services Tax Rules, 2017 the application is to be accompanied by "*….any one of the following documentary evidences…..*" as applicable. Since in the present case the refund was based solely on the order of the appellate authority, we fail to comprehend what further supporting evidence may have been required. In view of the above, we find ourselves unable to sustain the impugned order.

7. The writ petition is, accordingly, allowed. The impugned order

dated 23 November 2020 is hereby quashed. The respondents are directed to forthwith refund the amounts which are found due and payable in accordance with law and with due expedition.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

OCTOBER 15, 2024/kk