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

\+ W.P.(C) 16896/2024

J M PLASTIC INDUSTRIES .....Petitioner

Through: Mr. Nitin Gulati, Mr. Narinder Gulati and Ms. Reena Gandhi, Advs.

versus

DEPUTY COMMISSIONER OF CENTRAL TAX GST NARELA DIVISION DELHI NORTH COMMISIONERATE. .....Respondent

Through: Ms. Anushree Narain, SSC with Mr. Ankit Kumar, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE DHARMESH SHARMA

O R D E R

% **16.12.2024**

CM APPL. 73564/2024 (Amendment)

Bearing in mind the disclosures made, the application is allowed. The amended writ petition filed with the application is taken on record.

The application stands disposed of.

W.P.(C) 16896/2024

1. The writ petitioner impugns the order dated 16 June 2023 and which proceeds to negate its claim for grant of statutory interest in terms of Section 56 of the **Central Goods and Services Tax Act, 2017**[1]. The petitioner in consequence also prays for the grant of statutory interest as provided for under the Act.

2. We note that the petitioner's application for refund and which pertained to the months of October 2017 to March 2018 had come to be rejected on 19 September 2019 by the Assistant Commissioner.

Aggrieved by the aforesaid, the petitioner had instituted a statutory appeal which fell for consideration of the Joint Commissioner and which appeal too came to be dismissed on 08 October 2021.

3. Constrained by the decisions so taken, the petitioner had approached this Court by way of **J M Plastic Industries vs. Assistant Commissioner & Anr.**[2] and which came to be allowed with the Court holding as follows:

> "1. The petitioner has filed the present petition, inter *alia,* impugning an order dated 19.09.2019 passed by respondent no.1 (Assistant Commissioner of Central Tax, Narela Division, Delhi North Commissionerate), whereby the petitioner's application for refund for the months of October 2017 to March 2018 was rejected. The petitioner also impugns an order dated 08.10.2021 passed by respondent no.2 (Joint Commissioner, Central Goods and Services Tax Appeal-1), whereby the petitioner's appeal against the impugned order dated 19.09.2019 was rejected. The petitioner's request for refund was rejected solely on the ground that there was a mismatch in the period of the returns filed and the period for which refund was sought.
> 2. Ms Narain, learned counsel appearing for the respondents, states that she has since obtained the necessary instructions and in view of the Circular dated 21.03.2020, clubbing of the period is now permissible. She submits that the matter be remanded to respondent no.1 to consider afresh. The said course commends to us.
> 3. In view of the above, the impugned order dated 19.09.2019 and the order of the Appellate Authority (respondent no.2) dated 08.10.2021 are set aside. The petitioner's application is restored before respondent no. 1. Respondent no. 1 shall consider the petitioner's application for refund in accordance with law.
> 4. The petition is disposed of in the aforesaid terms."

4. Pursuant to the directions for remand as framed, the petitioner approached the respondents yet again. This time too its claim for interest on refund has come to be negatived on 16 June 2023 with the authority observing as follows:

> "4.1- As regards processing of Interest, claimed by the petitioner on their nine refund applications, the Range office has examined the issue and have inter-alia stated that:

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[1] Act
[2] W.P.(C) 7720/2022 dated 15 March 2023

4.1.1 Section 56 of CGST Act, 2017 reads as under

Interest on Delayed Refunds

"If any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under subsection (1) of that section, interest at such rate not exceeding six per cent. as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application under the said subsection till the date of refund of such tax:

Provided that where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding nine per cent. as may be notified by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund.

Explanation: For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section 15)."

4.1.2 In the instant case, the refund application for the period form October-2017 to March-2018 has been rejected by the proper officer, hence in terms of first para of Section 56 of CGST Act, 2017, no interest is payable on the refund amount. Further, in the OIA 344/JC/Central Tax/Appl-l/DeIhi/2021 dated 08.10.2021 passed by JC(Appeals), Appeal-I, Delhi, the appeal of the claimant was rejected. The Order dated 15.03.2023 passed by the Hon'ble High Court of Delhi has attained finality as the same has been accepted by the proper reviewing authority under section 112(3) of the CGST Act, 2017 and refund application filed by the claimant in compliance of the said order is being processed in accordance with law. Further, it may be referred that Honourable High Court in its order dated 15.03.2023 has directed for processing of petitioner's claim for refund and there is no mention of grant of interest. In view of the foregoing, no interest is payable to the claimant on the refund amount of Rs. 9,56,424/-.

5- The Range office has observed that the amount of refund of Rs. 9,56,424/- has been debited from the Electronic Credit Ledger of the claimant and no recredit of the same has been made till date as per the common portal.

6. Further, the calculation sheet for arriving at the admissible refund as verified by the Range Officers is enclosed with this Order as Annexure 'B'.

7. In view of above, maximum refund amount eligible to the claimant is calculated as per Range Officer's verification report as under:

	Turnover of inverted rated supply of goods as per earlier RFD-01A applications	Tax payable on such inverted rated supply of goods as per earlier RFD-01A applications)	Adjusted total turnover as per earlier RFD-01A applications	Net input tax as per earlier RFD-01A applications	Maximum Refund Amount to be claimed(as per earlier RFD-01A applications
Claim of the party	1,49,73,402	7,48,670	1,49,73,402	17,05,746	9,57,076
Admissible	1,49,73,402	7,48,670	1,49,73,402	17,01,937	9,53,267

However, refund claim filed by the claimant is for Rs. 9,56,424/- which appears to be inadmissible and only an amount of Rs. 9,53,267/- is admissible as per above description and verification report of Range Officers. An amount of Rs. 3,157/- is recommended to be rejected by the range office.

8. I have gone through the facts of the case, submissions made by the claimant and verification report submitted by the Range Officers in physical file C.No.V(16)/CGST/D-Narela/R-38/Refund/JMPI/55/2023 and that uploaded by them in the AIO on the common portal. I observe that the order of the Hon'ble High Court of Delhi dated 15.03.2023 has been accepted by the competent authority as informed by Legal Branch, CGST Delhi North vide their email dated 02.05.2023. The claimant has filed the present refund application based on the order passed by the Hon'ble High Court of Delhi. Accordingly, the refund claim has been verified by the Range Office regarding its admissibility as discussed in the foregoing paras and have recommended grant of refund of Rs.9,53,267/- and rejection of an amount of Rs. 3157/-. In view of afore-stated, I observe that the claimant is eligible for maximum refund amount of Rs.9,53,267/- (IGST-0/-, CGST-2,59,596/-, SGST- 6,93,671/-), and refund claim of Rs. 3,157/- (CGST-O/-, SGST-3,157/-, IGST - Rs.0/-) is liable for rejection."

5. As is manifest from a reading of the conclusions which appears in the order impugned before us, the authority appears to harbour the view that since the refund application had come to be originally rejected, the provisions of Section 56 would not apply. The said view is clearly rendered untenable and appears to have been rendered in ignorance of the order dated 15 March 2023 pursuant to which the writ petition had itself come to be allowed and the orders passed by the respondent authorities quashed and set aside.

6. The mere fact that the order dated 15 March 2023 did not specifically allude to the provisions contained in Section 56 of the Act would also not detract from the right of the writ petitioner to claim interest which must be paid in terms of the statute itself. While allowing the writ petition, we had also observed that the application for refund would be examined and disposed of "in accordance with law". We fail to countenance what further clarity could have been accorded by us while disposing of the earlier writ petition.

7. We, consequently, allow the present writ petition and quash the impugned order dated 16 June 2023. The respondents are hereby directed to compute the interest payable under Section 56 of the Act on the refund as determined and to ensure the same is remitted with due expedition, and in any case within a period of two weeks from today.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

DECEMBER 16, 2024/gunn