18.06.2025
Item No
AD 4
Sayandeep/sb

WPA 1578 of 2025

Tarinika & ors.
versus
Commissioner of Central Goods & Services Tax, Howrah CGST and CX Commissionerate & anr.

Ms. Shruti Swaika
Mr. Sreyash Basu Dasgupta
Ms. Sanjukta Das
...For the petitioners
Mr. Uday Sankar Bhattacharya
Mr. Tapan Bhanja
..... for the CGST

1. The present writ petition has been filed, *inter alia*, praying for a direction upon the respondent authorities to forthwith process the refund applications filed by the petitioners in form GSTRFD 01 for the tax periods of February 2020 to March 2021, April 2021 to December 2021, and January 2022 to September, 2022 and October, 2022 to March, 2023.

2. In support of the petitioners' case, the petitioners have disclosed copy of the relevant GSTRFD 01 forms. The petitioners' case proceeds on the premise that in the event, any deficiencies are noticed in the aforesaid applications ordinarily having regard to the provisions contained in Rule 90(3) of the WBGST/CGST Rules, 2017, the proper officer is obliged to communicate such deficiencies in form GST RFD03 through the common portal electronically within 15 days from filing of the application. In the instant case, the same had not been done. On the contrary, the petitioners had come to learn though the common portal that though certain deficiency memos had been uploaded on the common portal, the said deficiency memos did not identify

the reasons and/or the *deficiencies* for which the petitioners' refund application was not allowed. This prompted the petitioners to ultimately approach this Court.

3. On the aforesaid petition being moved by an order dated 1st May, 2025, this Court taking note of the case made out by the petitioners and upon going through the screenshot from the portal in respect of the deficiency memo in form RFD 03 was able to ascertain that the documents column of such form as appearing on the common portal did not reflect the attachment of any document whereby the deficiencies could be identified.

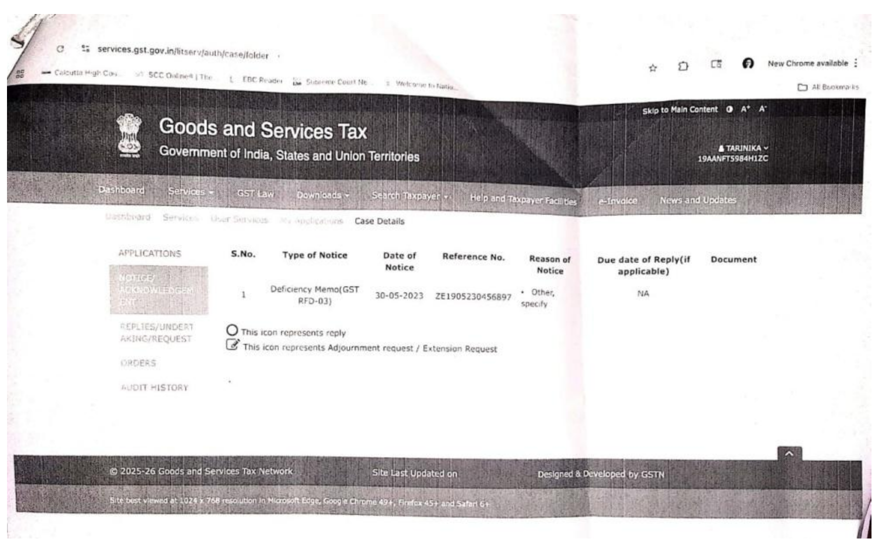
4. In such circumstances, this Court had directed the respondents to file an affidavit disclosing the deficiency memo as available in the portal of the petitioners and to annexed copy of the RFD 03 by downloading the same from the portal in the affidavit so to be filed.

5. On 11th June, 2025 though the respondents had sought for an extension to file the affidavit in terms of the order dated 1st May, 2025, the learned advocate for the petitioners has once again placed before this Court a photocopy of the screenshot of the portal which reflected though the deficiency memos in form RFD 03 had been uploaded, the same did not spell out any reasons so as to justify the case made out by the petitioners. These documents appear to have been downloaded from the portal and the screenshot was taken on 10th June, 2025.

6. Since then the matter has come up for final consideration. Mr. Bhattacharya learned advocate has placed before this Court the affidavit and has enclosed the deficiency memo. From the deficiency memo, it would

transpire that the reasons for rejection was that the "*Data provided in Annexures is appeared to be improper and cannot be verified from ICEGATE"*.

7. Incidentally, on being called upon the petitioners have accessed the portal of the petitioner no.1 in Court today in the presence of the learned advocate for the respondents as also the concerned officer instructing the respondents who was present in Court today. From a view of the portal it would transpire that no document or reasons identifying the deficiencies have been attached to the deficiency memo uploaded on the common portal in form RFD 03. A printout of the screenshot taken by the petitioners as placed before this Court is taken on record. To morefully appreciate the same, such memo is extracted hereinbelow:



services.gst.gov.in/litserv/auth/case/folder

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Case Details

APPLICATIONS

NOTICE/ ACKNOWLEDGEMENT

REPLIES/UNDERTAKING/REQUEST

ORDERS

AUDIT HISTORY

S.No.	Type of Notice	Date of Notice	Reference No.	Reason of Notice	Due date of Reply(if applicable)	Document
1	Deficiency Memo(GST RFD-03)	30-05-2023	ZE1905230456897	• Other, specify	NA	

This icon represents reply

This icon represents Adjournment request / Extension Request

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8. I find that the right to seek refund is provided for in Section 54 of the WBGST/CGST Act, 2017 (hereinafter referred to as the "said Act"). In terms of the provisions contained in sub–section (4) of Section 54, an application in Section 54(1) is required to be accompanied with documents as identified in the said Section and should be filed in form RFD 01 electronically on the portal. Section 54(1) provides that the claim of refund of any tax or

interest, if any, shall be made by making an application before expiry of 2 years. The procedure for filing of such application is provided for in Rule 89 of the WBGST/CGST Rules, 2017 (hereinafter referred to as the "said Rules) and the procedure for issuance of acknowledgement is also provided for in Rule 90 of the said Rules. However, as per Rule 90(3) where any deficiencies are noticed, the proper officer is obliged to communicate the deficiencies to the applicant in Form RFD-03 through the common portal electronically requiring him to file afresh after rectification of such deficiencies. The relevant proviso after sub-Rule 3 of Rule 90 of the said Rules excludes the period between the date of filing of the relevant application in Form RFD-01 till the date of communication of the deficiencies in Form RFD -03 by the proper officer while computing the period of 2 years limitation provided for in Section 54(1) of the said Act. Having regard thereto, in my view the right to re-file an application only arises when a deficiency is notified to the registered tax payer. Admittedly, in this case from the documents available on records, it transpires that though the proper officer may have identified certain deficiencies, however, such deficiencies did not reflect in the view site of the portal. Mr. Bhattacharya, may not be wrong in contending that the proper officer had duly discharged his responsibility, however, in my view the right of the petitioner no. 1 to refile an application accrues only when the deficiencies are communicated by the proper officer through the common portal electronically to the petitioner no.1 . In this case, there appears a communication gap in the officer discharging his duties and the same not being communicated to the petitioner no.1. Though the expression common portal has been used, in reality view screen of the portal that the officer views and the portal that the petitioner no.1 is able to access does not appear to be one and the same.

9. Be that as it may, while directing the respondents to take up this issue with the appropriate authority, and noting that the petitioner no. 1 cannot be made to suffer without being made aware of the deficiencies, I permit the petitioner no.1 to re-file the refund application in respect of the aforesaid period by treating that the deficiency memo be communicated to the petitioner on this day.

10. With the above observations and directions, the writ petition is disposed of.

11. It is made clear that this order is being passed in the peculiar facts of this case.

12. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)