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IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

**WPA 31048 of 2024**

Shree Ramdoot Metloys Private Limited & Anr.  
Versus  
Assistant Commissioner of State Tax, Directorate  
Of Commercial Taxes & Ors.

Mr. Ankit Kanodia  
Ms. Megha Agarwal  
Mr. Piyush Khaitan

... For the petitioners.

Mr. Sahasrangshu Bhattacharya  
Mr. Loknath Chatterjee  
... For Union of India.

Mr. Anirban Ray, Ld. GP,  
Mr. T. M. Siddiqui, Sr. Advocate,  
Mr. Tanoy Chakraborty  
Ms. Sumita Shaw  
Mr. Saptak Sanyal  
... For the State.

Ms. Manasi Mukherjee  
Mr. Bijitesh Mukherjee  
... For the respondent no.2.

1. Challenging the refund rejection order issued in Form GST RFD-06 dated 25<sup>th</sup> September, 2024, the instant writ petition has been filed.
2. The petitioner no. 1 claims to be engaged in the business of manufacture and supply of ferro alloys and also claims to have exported goods to foreign territory from time to time. It is the petitioners' case, in terms of Rule 96 of CGST/WBGST/IGST Rules, 2017 (hereinafter referred to as the said Rules), the petitioner no.1 is entitled to refund of integrated tax paid on goods

or services upon filing shipping bills by the exporters of goods which is deemed to be an application for refund of integrated tax paid on goods exported out of India, provided the person in-charge of conveyance carrying the export goods duly files a departure manifest or an export manifest or an export report covering the number and the date of the shipping bills and the applicant files a valid return in Form GSTR - 3B.

3. According to the petitioners, in terms of the proviso to rule 96(1)(b) of the said Rules, in the event, that there is a mismatch between the data furnished by the exporter of goods in shipping bill and those furnished in the statement of outward supply in Form GSTR – 1, the application shall be deemed to have been validly filed when the discrepancies are rectified by the exporter.
4. The learned counsel representing the petitioners, by drawing attention of this Court to rule 96(3) of the said rules, would submit that upon receipt of information regarding the furnishing of a valid return in FORM GSTR-3B from a common portal, the system designated by the Customs or the proper officer of the Customs, as the case may be, shall process the claim of refund in respect of export of goods and an amount equal to the integrated tax paid in respect of the shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration

particulars.

5. He, however, submits that eventualities have been provided in sub-rule (4) of rule 96 as to when such refund can be withheld. According to him, in the event the refund is withheld on the grounds referred to in Clause (a) and clause (c) of sub-rule (4) of rule 96, in terms of sub-rule 5A thereof, a system generated refund application in FORM GST/RFD-01 is automatically generated and intimation of such transmission is sent to the exporter electronically through the common portal and the said system generated form is deemed to be the application for refund filed by the exporter.
6. In the instant case, the petitioners would submit that by reasons of the structure of the common portal, the petitioners could not identify the system generated application raised on behalf of the petitioners by the department in FORM GST RFD-01 and as such could not respond to the show-cause which has led to passing of the refund rejection order dated 25<sup>th</sup> September, 2024. He would submit that this Court may be pleased to set aside the same and permit the petitioners to appropriately respond to the show-cause for the same to be processed by the respondents.
7. Mr. Siddiqui, learned senior advocate and Additional Government Pleader appearing on behalf of the State respondents would submit that apart from the

communication through the electronic portal as provided in Rule 96(5A) of the said Rules, there are no other mode of communication specified and as such the system generated refund application was intimated to the petitioners through the common portal. He reiterates that the only mode of communication provided for is the common portal which had duly been adhered to. He would submit that since the authorities had complied with the statutory formalities, the authorities cannot be faulted. If the petitioners have not chosen to respond to the same, it is the petitioners who are to blame for the same. The order impugned is an appealable order and this Court in exercise of its extraordinary jurisdiction should not entertain the petition.

8. Having heard the learned advocates appearing for the respective parties and having considered the materials on record, I find that it is an admitted position that the petitioners are engaged in the business of manufacture and exports, and in usual course had exported certain goods. The petitioners claim to have exported the goods with payment of integrated goods and service tax under two several invoices dated 17<sup>th</sup> April, 2023 and 3<sup>rd</sup> June, 2023 along with two corresponding shipping bills dated 18<sup>th</sup> April, 2023 and 5<sup>th</sup> June, 2023. According to the petitioners, it had exported the goods in compliance with the

provisions for making zero rated supply as prescribed in Section 16 of the IGST Act, 2017.

9. According to the petitioners, in terms of the scheme of Rule 96 of the said Rules, ordinarily the shipping bills filed by the petitioners is deemed to be an application for refund of integrated tax paid on the goods exported out of India. Further, in terms of Rule 96(3), on the receipt of the information regarding furnishing of a valid return in Form GSTR-3B from the common portal, the system designated by the Customs or the proper officer of Customs, as the case may be, is obliged to process the claim of refund in respect of export of goods and an amount equal to the integrated tax paid in respect of each shipping bill or bill of exports are to be electronically credited to the bank account of the applicant mentioned in his registration particulars, and as intimated to the Customs authorities. Since the petitioners claim to have exported the goods along with duty, the petitioners were expecting that upon furnishing of the return filed by the petitioners in Form GSTR-3B, the petitioners' bank account would be credited with the integrated goods and service tax already paid in respect of the shipping bill to the petitioners' bank account. In the instant case, records would reveal that the petitioners refund was not effected and the same was withheld in terms of Rule 96(4) of the

said Rules.

10. As per stand taken by the respondents the aforesaid withholding of the refund is on account of the provisions contained in clause (c) of sub-rule (4) of Rule 96 of the said Rules and having regard thereto, a refund application was system generated on the common portal and in Form GST RFD-01 and an intimation thereof was sent to the petitioners on the common portal. Although, Mr. Siddiqui, by placing reliance on Rule 5A of the said Rules has claimed that the only mode of communication of the aforesaid application is through the common portal, however, upon going through the petition and noting the structure of the common portal, it appears that the aforesaid system generated refund application can only be identified upon accessing the refund module on the common portal. In this case, since the petitioners had no reasons to regularly access the refund module, as the petitioners were awaiting refund in their bank account, the petitioners claim to have missed the communication issued by the respondents not only as regards system generated claim application in Form GSTRFD-01 but also the subsequent show cause.
11. Considering the above and in the peculiar facts noted above, I am of the view that the benefit of doubt should be given to the petitioners, especially when the petitioners may not have got appropriate opportunity to respond to the show cause.

12. Accordingly, on the ground of violation of principle of natural justice the refund rejection order dated 25<sup>th</sup> September, 2024 is set aside.
13. The petitioners are permitted to respond to the show cause already issued by the respondents within a period of two weeks from date.
14. The proper officer is directed to decide on the application for refund in Form GSTRFD-01 within a period of four weeks from the date of filing of such response by the petitioners.
15. With the above observations and directions, the writ petition is disposed of.

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

**(Raja Basu Chowdhury, J.)**