IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2927 OF 2024

M/s. Pooja Engineering Co. .. Petitioner.

Versus

The State of Maharashtra
& Ors. .. Respondents

Adv. Rahul C. Thakar i/b Adv. C.B. Thakar for the Petitioner.

Adv. Himanshu Takke -A.G.P. a/w Adv. Manish Upadhye A.G.P. for Respondent Nos. 1 & 2 (for State of Maharashtra).

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: JANUARY 13, 2025

P. C.

1. Rule. Respondents waive service. With the consent of parties, Rule made returnable forthwith and heard finally.

2. The above Writ Petition challenges the impugned Order dated 27th May, 2021 rejecting the Refund Application filed by the Petitioner. This was a consolidated Application for 25 export transactions.

3. The Refund Application was rejected by the Deputy Commissioner of State Tax on the ground that the same was not filed within a period of 2 years under Section 54(1) of the CGST (Central Goods and Service Tax) Act, 2017.

4. The learned counsel appearing on behalf of the Petitioner brought to our attention that after the impugned Order, the Central Board of Indirect Taxes and Customs has in fact issued a notification dated 5th July 2022, which directs that for computing the period of limitation for filing a refund Application under Section 54 or Section 55 of the CGST Act, the period from 1st March 2020 to 28th February 2022 is to be excluded. He further submitted that in the facts of the present case, if one were to take into the consideration the notification dated 5/7/2022 issued by CBITC, the period for seeking refund sought for every transaction was within the two year period as stipulated in Section 54(1) of the CGST Act.

5. The learned AGP appearing for the Respondent-state fairly stated that considering the above notification, the impugned Order can be set aside and the matter can be remanded back to the Deputy Commissioner of State Tax to re-process the Refund Application filed by the Petitioner.

6. Considering the fair stand taken by the State, we hereby quash and set aside the impugned order dated 27th May 2021 and restore the Refund Application filed by the Petitioner on the file of the Deputy Commissioner of State Tax. We direct that the Deputy Commissioner of State Tax shall process the Refund Application on merits and in accordance with law, without raising issue of limitation.

7. Rule is made absolute in the aforesaid terms and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

8. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**