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

\+ W.P.(C) 809/2021

PACIFIC EXPORTS AND IMPORTS .....Petitioner

Through: Mr. Vineet Bhatia, Mr. Aamnaya Jagannath Mishra, Mr. Keshav Garg, & Mr. Abhinav Sharde, Advs.

versus

ADDITIONAL COMMISSIONER OF CENTRAL TAX & ANR. .....Respondents

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

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

O R D E R

% **21.02.2025**

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

> "a) Issue a writ of mandamus or any other writ, order or direction of like nature to the Respondents, directing the respondents to grant refund of Rs.10,79,696/- to the Petitioner by passing a fresh FORM GST RFD-06.
>
> b) Issue a writ of mandamus or any other writ, order or direction in the nature thereof directing the Respondents declaring that ……
>
> c) Pass such further and other orders; as this Hon.'ble Court may deem fit and proper in the nature and circumstances of the case."

2. As is manifest from the above, the petitioner is essentially aggrieved by the failure on the part of the respondents to release the refunds which were claimed.

3. From the response which has been filed on their behalf in these proceedings, however, we note that they principally allude to the following discrepancies in the GSTR-2A. This becomes evident from a reading of Paragraphs 15 and 16 of the counter affidavit and which

are extracted hereinbelow:-

> "15. The contents of Paragraph 13 are incorrect, denied and summarily refuted as the admitted demand amounts are wrongly mentioned by the Petitioner. The correct amount of admitted demand as per the reply submitted by the Petitioner as given as under:"

Month	Admitted amount as per records
November, 2017	48,036/-
December, 2017	70,789/-
January, 2018	7,033/-
February, 2018	10,296/-
March, 2018	10,894/-
April, 2018	6,399/-
May, 2018	16,616/-
June,2018	11,156/-
July, 2018	No reply submitted by the Petitioner
August, 2018	No reply submitted by the Petitioner
November, 2018	No reply submitted by the Petitioner

16. The contents of Paragraph 14 of the Writ Petition are incorrect and denied.

(a) As per the records available, the Petitioner was given an opportunity of being heard through personal hearings by appearing before the competent authority as the personal hearing date and time had already been mentioned in each Show-Cause Notice itself. The Show-Cause Notice at **Pages 46** and **47** of the Writ Petition) reads as under:

> *"You are also directed to appear before the undersigned on 04.04.2019 at 13:35 Hrs. If failed to furnish* a *reply with the stipulated date or fail to appear for personal hearing on he appointed date & time, the* case *will be decided on the basis of available records & on merits"*

(b) As per the statutory provisions under CGST Act, 2017, the admissible amount of refund claimed pertains to those Input Tax Credit (ITC) claimed invoices against which Tax has already been paid. The GSTR-2A is the only relied upon document for the assessing officers to verify the validity of input invoices. It can be viewed from the aforementioned validation requirements that the refund of those invoices, which were not reflecting in the GSTR-2A, could not be granted to the Petitioner regardless the fact whether the said mismatching of invoices was mentioned in the Show-Cause Notice or not.

Moreover, it is submitted that the fact that the mismatch of invoices had still been reflecting in his GSTR-2A even after lapse

> of 2 years after the relevant period. It is submitted that the second ground mentioned in the Para 14 of the petition pertains to the mismatch of ITC invoices reflecting in GSTR-2A and of the invoices for which refund was claimed. The GSTR-2A is an auto-populated document that is available on GST Portal and is accessible to both assessing officer and the Petitioner and is the only way to validate the applied refund claim. Therefore, the second ground of rejection of claim which was mismatch of invoices on the basis of GSTR-2A was available to the Petitioner and that fact cannot be denied. Moreover, even during the personal hearing before the Additional Commissioner of Central Tax (Appeals-II), the Petitioner has not challenged that the stated ITC in respect of mentioned invoices are reflecting in his GSTR-2A and therefore, the Petitioner has no right to claim refund in respect of those invoices."

4. We note that despite time having been granted on earlier occasions, the petitioner has failed to file a rejoinder affidavit.

5. We, consequently, find no justification to continue the writ petition on our board and dispose of the same by permitting the writ petitioner to file its response to the stand as taken by the respondents and which stands reflected in Paragraphs 15 and 16 of the counter affidavit as reproduced hereinabove. The said response may be filed within a period of three weeks from today.

6. The competent authority shall duly examine the response of the writ petitioner and pass a detailed reasoned and speaking order within a period of four weeks therefrom.

7. All rights and contentions of respective parties on merits are kept open.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

FEBRUARY 21, 2025/ DR