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

\+ W.P.(C) 14121/2024

M/S TRIUNE PROJECTS PRIVATE LIMITED .....Petitioner

Through: Mr. Siddarth Malhotra, Adv.

versus

COMMISSIONER OF STATE GST AND VAT DEPARTMENT OF TRADE AND TAXES DELHI .....Respondent

Through: Mr. Abhinav Sharma and Ms. Aakriti Jain, Advs.

CORAM:
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

O R D E R

% **28.03.2025**

1. The present Writ Petition is for a writ of mandamus directing the Respondent to sanction the refund claim of the Petitioner under the Refund Application dated 30.11.2023 for an amount of Rs. 70,09,455/- for a period from April 2020 to March 2022.

2. The case of the Petitioner is that the Refund Application dated 30.11.2023 and the deficiency memo has been served on the Petitioner on 07.05.2024, much beyond the time period prescribed under the Central Goods and Services Tax Act, 2017 [‘**the Act**’].

3. The issue is squarely covered by the judgment of this Court in **M/s Jian International versus Commissioner of Delhi Goods and Services Tax** [2020 SCC OnLine Del 2606]. The relevant paragraphs of the said judgment reads as under:

"7. Having heard learned counsel for the parties, this court finds that Rules 90 and 91 of the CGST/DGST Rules provide a complete code with regard to acknowledgement, scrutiny and grant of refund. The said Rules also provide a strict time-line for carrying out the aforesaid activities. For instance, Rules 90(2) and (3) of the DGST Rules states that within fifteen days from the date of filing of the refund application, the respondent has to either point out discrepancy/deficiency in FORM GST RFD-03 or acknowledge the refund application in FORM GST RFD-02. In the event deficiencies are noted and communicated to the applicant, then the applicant would have to file a fresh refund application after rectifying the deficiencies. The relevant portion of Rule 90 of the CGST/DGST Rules is reproduced herein below:

"**90. Acknowledgement.**-….

(1) Where the application relates to a claim for refund from the electronic cash ledger, an acknowledgement in FORM GST RFD-02 shall be made available to the applicant through the common portal electronically, clearly indicating the date of filing of the claim for refund and the time period specified in sub-section (7) of section 54 shall be counted from such date of filing.

(2) The application for refund, other than claim for refund from electronic cash ledger, shall be forwarded to the proper officer who shall, within a period of fifteen days of filing of the said application, scrutinize the application for its completeness and where the application is found to be complete in terms of sub-rules (2), (3) and (4) of rule 89, an acknowledgement in FORM GST RFD-02 shall be made available to the applicant through the common portal electronically, clearly indicating the date of filing of the claim for refund and the time period specified in sub-section (7) of section 54 shall be counted from such date of filing.

(3) Where any deficiencies are noticed, the proper officer shall communicate the deficiencies to the applicant in FORM GST RFD-03 through the common portal electronically, requiring him to file a fresh refund application after rectification of such deficiencies."

8. In the event of default or inaction to carry out the said activities within the stipulated period, consequences like payment of interest are stipulated in section 56 of the CGST/DGST Act.

9. Admittedly, till date the petitioner's refund application dated November 4, 2019 has not been processed. As neither any acknowledgment in FORM GST RFD-02 has been issued nor any deficiency memo has been issued in RFD-03 within time-line of fifteen days, the refund application would be presumed to be complete in all respects in accordance with sub-rules (2), (3) and

(4) of rule 89 of the CGST/DGST Rules.

10. To allow the respondent to issue a deficiency memo today would amount to enabling the respondent to process the refund application beyond the statutory time-lines as provided under rule 90 of the CGST Rules, referred above. This could then also be construed as rejection of the petitioner's initial application for refund as the petitioner would thereafter have to file a fresh refund application after rectifying the alleged deficiencies. This would not only delay the petitioner's right to seek refund, but also impair petitioner's right to claim interest from the relevant date of filing of the original application for refund as provided under the Rules."

4. A perusal of the same reveals that it was not open for the Respondent to violate the timeline prescribed under the Act and serve a deficiency memo beyond the time period prescribed.

5. Resultantly, the writ petition is answered in terms of Prayer (i) and stands disposed of. The Respondent is directed to ensure that the refund is given to the Petitioner within a period of four weeks from today alongwith statutory interest.

SUBRAMONIUM PRASAD, J.

HARISH VAIDYANATHAN SHANKAR, J.

MARCH 28, 2025/*akc*