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

\+ **W.P.(C) 9146/2022**

Date of Decision**: 10.04.2026**

IN THE MATTER OF:

M/S GITWAKO FARMS INDIA PRIVATE LIMITED .....Petitioner

Through: Mr. Pranay Mohan Govil, Adv. with Priya Katare, Adv. and Ms. Shagun Chopra, Adv.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr Naginder Benipal SPC, Mr Ankit Siwach Mr Udit Vaghela Mr Arjun Baliyan, Advs.

CORAM:
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The petition is for directions to the respondents to reimburse the GST amount paid by the petitioner on supply of frozen meat to the Indian Army. For the sake of clarity, relief prayed for by the petitioner is extracted as under:

> *"a. Issue an appropriate writ, order(s) or direction quashing/setting aside/declaring non est the Impugned Clarification dated 25.04.2019 issued by Respondent No. 2, annexed as* ***Annexure A*** *, whereby Respondent No. 2 has held that no GST is payable on the Frozen Chicken supplied by the Petitioner to the Respondent No. 3 at its supply depots*

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forming part of the Gwalior Cluster, i.e. Jhansi, Gwalior-Maharajpur and Babina-Talbehat; and b. Issue an appropriate writ, order(s) or direction quashing/setting aside/declaring non est Impugned Clarification dated 10.06.2019 issued by Respondent No. 1, annexed as Annexure B, whereby Respondent No. 1 has stated that no GST will be permitted to be charged on Chilled/Frozen Meat Products insofar as it prevents payment of GST to the Petitioner for supply of Frozen Chicken to the Respondent No. 3 at its supply depots forming part of the Gwalior Cluster, i.e. Jhansi, Gwalior-Maharajpur and Babina-Talbehat; and

c. Issue an appropriate writ, order(s) or direction quashing/setting aside/declaring non est Impugned Letters dated 27.12.2019, 24.02.2020, 09.07.2021 and 16.04.2022 issued by Respondent No. 3, whereby Respondent No. 3 has failed to make payments towards GST to the Petitioner for supply of Frozen Chicken to the Respondent No. 3 at its supply depots forming part of the Gwalior Cluster, i.e. Jhansi, Gwalior-Maharajpur and Babina-Talbehat, as a result of the Impugned Letter dated 25.04.2019 issued by Respondent No. 2 and the Impugned Clarification dated 10.06.2019 issued by Respondent No. 1; and

d. Issue an appropriate writ, order(s) or direction to the Respondent No. 3 to make payment of Rs. 16,79,814/- (Rupees sixteen lacs seventy nine thousand eight hundred and fourteen only) to the Petitioner herein on account of unpaid amounts towards GST @ 5% that have been deposited by the Petitioner on the Frozen Chicken goods that were supplied by the Petitioner to Respondent No. 3 at its various supply depots, for the supply year 01.04.2019 through 31.03.2020; and

e. Issue an appropriate writ or direction directing the Respondent to release interest @ 2% per month to the Petitioner pendente lite and future interest;

f. That in view of the facts and circumstances stated in the above paragraphs, it is prayed that this hon'ble Court may be pleased to allow the prayers as sought for in the present Petition."

2. The facts would indicate that the petitioner was awarded a contract for the supply of frozen meat to the Indian Army for the fiscal year 2019-20. The said product was duly supplied and a total of Rs.18,21,339/- was deposited by the petitioner towards GST.

3. The Army department has withheld reimbursement of the said GST amount, relying on clarification dated 25.04.2019 issued by the Controller General of Defence Accounts, and clarification dated 10.06.2019 issued by

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the Directorate General of Supplies and Transport.

4. *Vide* clarification dated 25.04.2019, a query raised by the Indian Army has been answered to the effect that GST is not leviable on the petitioner's products. Pursuant to the aforesaid clarification, on 20.05.2019, the contract was amended by the Indian Army and as per the amended terms, the GST amount need not be reimbursed to the petitioner.

5. *Vide* clarification dated 10.06.2019, it has been clarified that GST amount is not required to be reimbursed for the petitioner's products dispatched after the amendment of the contract. That position remains undisputed.

6. A perusal of clarification dated 25.04.20219 indicates that the concerned authority has held that the supply of the product in question is exempt from payment of GST as per *Notification No.2/2017-Central Tax (Rate)* (notification of 2017) dated 29.06.2017 issued by the Ministry of Finance, Government of India.

7. Therefore, what emerges for consideration is only the aspect whether the exemption notification dated 28.06.2017 is applicable to the case of the petitioner. If the said notification is applicable to the petitioner and it is not liable for payment of the GST on the products it has supplied to the respondents, it shall not be entitled to the GST already paid. However, if the petitioner is not exempted under the said notification, the petitioner will have to be reimbursed the GST.

8. To deal with the aforesaid aspect, the attention of the Court has been drawn to the advance ruling dated 18.04.2019 rendered by the Rajasthan Authority for Advance Ruling, GST (**RAAR**). The RAAR has specifically ruled that the supply of the petitioner's goods is branded and sold on actual

rate basis and as a result, they are supplied in a unit container and hence, will attract five per cent GST. It is also held that the petitioner's supply is not exempted under Entry 9 of the notification of 2017 on which reliance is placed by the respondent.

9. It be noted that the said ruling was challenged before the Rajasthan Appellate Authority of Advance Ruling (**RAAAR**), wherein, again, a specific issue was framed as to whether the petitioner's supply is classifiable as a unit container and whether such a supply is exempted under the notification of 2017. The appeal was rejected and in the final order dated 02.08.2019, it was held that the petitioner's goods are supplied in a unit container and are not exempted from payment of GST.

10. As per Section 103 of the Central Goods and Services Tax Act, 2017, the advance ruling passed by RAAR and the RAAAR are binding on the petitioner and, therefore, it was required to comply with the ruling and deposit the tax.

11. Pursuant to the aforesaid advance ruling, the petitioner has paid GST on the supply of the products in question, and therefore, claims reimbursement of the same.

12. The only reason for refusal of reimbursement as has been noted hereinabove was the exemption from GST liability allegedly enjoyed by the petitioner as per the terms of the notification of 2017. Since the petitioner's liability has been conclusively determined by the RAAR and RAAAR, therefore, there is no reason to conclude otherwise.

13. What, thus, transpires is that the exemption notification was not applicable to the petitioner and it, therefore, was to make the payment of GST. It is, thus, entitled for the reimbursement of the balance amount from

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the respondent.

14. The petition is allowed.

15. Let the respondents to reimburse the balance amount of the GST paid by the petitioner on the frozen meat supplied to the Indian Army, within a period of three months from the date of receipt of a copy of the order passed today.

16. If the payment is not made within the aforesaid period, the petitioner shall be entitled to interest at the rate of six per cent per annum, thereafter.

PURUSHAINDRA KUMAR KAURAV, J

APRIL 10, 2026/P

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