

[2022] 144 taxmann.com 212 (Andhra Pradesh)[29-09-2022]

GST : High Court directs GST authority to take into account CBIC Circular clarifying time-limit and effect of amendment relating to refund when incorrect type of tax was paid as circular was not issued when order rejecting refund claim was passed



[2022] 144 taxmann.com 212 (Andhra Pradesh)

HIGH COURT OF ANDHRA PRADESH

Axis Bank

v.

Union of India*

C. PRAVEEN KUMAR AND A.V. RAVINDRA BABU, JJ.

WRIT PETITION NO.11424 OF 2021

SEPTEMBER 29, 2022

Refund - Limitation - Incorrect type of tax paid - Tax was wrongly paid as IGST and to rectify same, CGST and SGST were paid resulting in payment of tax twice on same services rendered - Refund application was rejected on ground that same was time-barred - HELD: CBIC Circular clarifying effect of insertion of rule providing for time-limit of two years and for refund claims filed before amendment, two years to be counted from date of effect of amendment - Matter was remanded as concerned authority while passing order could not have taken into consideration circular issued by CBIC in September, 2021 [Section 54 read with section 77 of Central Goods and Services Tax Act, 2017/Andhra Pradesh Goods and Services Tax Act, 2017 - Section 19 of Integrated Goods and Services Tax Act, 2017] [Para 11] [Partly in favour of assessee]

Circulars & Notifications : CBIC Circular No. 162/18/2021-GST dated 25-09-2021 and Notification No. 35/2021 - Central Tax dated 24-09-2021

[ORDER](#)

***Partly in favour of assessee.**