
[2022] 144 taxmann.com 216 (Andhra Pradesh)/[2022] 94 GST 819 (Andhra Pradesh)[11-10-2022]

GST : Order rejecting refund claim on ground of expiry of limitation period of 2 years was passed without considering specific contention of assessee that refund applications was within time, same was bad and hence, matter was to be re-adjudicated

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[2022] 144 taxmann.com 216 (Andhra Pradesh)

HIGH COURT OF ANDHRA PRADESH

Aref Abdul Sattar Textiles (P.) Ltd.

v.

Deputy Commissioner State Tax*

UJJAL BHUYAN, C.J.

AND C.V. BHASKAR REDDY, J.

WRIT PETITION NO. 19179 OF 2022

OCTOBER 11, 2022

Refund - Input tax credit - Limitation - For period from July, 2017 to March, 2018, petitioner had filed refund application on 14-1-2022 on ground that there was excess payment of GST for aforesaid period - Department stated that refund application was barred by limitation as petitioner did not file refund application within two years from relevant date as per section 54 of CGST Act - Petitioner submitted a detailed objection before respondent wherein it was specifically pointed out that refund application was within time and could not be construed to be beyond limitation - Department rejected claim of refund on ground that refund application was barred by limitation - HELD : Impugned order was not a speaking order and no reasons had been assigned for rejecting refund application of petitioner - Further, objections filed by petitioner was not adverted to - A fresh order on refund application of petitioner was to be passed [Section 54 of Central Goods and Services Tax Act, 2017/Telangana Goods and Services Tax Act, 2017] [Paras 6, 8 and 9] [In favour of assessee]

Karan Talwar, Learned Counsel *for the Petitioner*. **K. Raji Reddy**, Learned Sr. Standing Counsel *for the Respondent*.

ORDER

Ujjal Bhuyan, C.J. - Heard Mr. Karan Talwar, learned counsel for the petitioner and Mr. K.Raji Reddy, learned Senior Standing Counsel for Commercial Tax appearing for the respondents.

2. By filing this writ petition under article 226 of the Constitution of India petitioner seeks quashing of order dated 16-3-2022 passed by respondent No. 1 rejecting the refund application of the petitioner for the period from July, 2017 to March, 2018. Petitioner further seeks a direction to the respondents to grant refund of Rs. 88,89,113.00 along with applicable interest being the excess payment of tax by the petitioner for the aforesaid period.

3. Petitioner is registered under the Goods and Services Tax (GST) and is engaged in the business of textiles and sale of readymade garments. Petitioner has been filing GSTR-3B returns regularly, including for the period from July, 2017 to March, 2018.

4. For the aforesaid period, petitioner filed refund application dated 14-1-2022 before respondent No. 1 claiming refund of Rs. 88,89,113.00, the breakup of which is as under -

- (i) Integrated Goods and Services Tax (IGST) - Rs. 76,08,563.00;
- (ii) Central Goods and Services Tax (CGST) - Rs. 6,40,275.00; and
- (iii) State Goods and Services Tax (SGST) - Rs. 6,40,275.00

5. The refund application was made on the ground that there was excess payment of GST by the petitioner for the aforesaid period.

6. A show cause notice dated 9-3-2022 was issued to the petitioner by respondent No. 1 stating that the refund application was barred by limitation as the petitioner ought to have claimed the refund within two years from the relevant date *i.e.*, from the date of excess payment made in terms of section 54 of the Central Goods and Services Tax Act, 2017/Telangana Goods and Services Tax Act, 2017. Therefore, respondent No. 1 proposed to reject the claim of refund. Petitioner was called upon to file objection, if any, with documentary evidence.

7. Petitioner submitted a detailed objection before respondent No. 1 on 10-3-2022 wherein petitioner specifically pointed out that the refund application was within time and could not be construed to be beyond limitation.

8. Thereafter, respondent No. 1 passed the impugned order dated 16-3-2022 rejecting the claim of refund made by the petitioner. Insofar reasons for the refund amount being inadmissible, it was mentioned in the impugned order as "delay in refund application".

9. On going through the impugned order, we are of the view that the same is not at all a speaking order. No reasons have been assigned for rejecting the refund application of the petitioner. Respondent No. 1 did not advert to the objections filed by the petitioner on 10-3-2022.

10. That being the position, we set aside the impugned order dated 16-3-2022 and remand the matter back to respondent No. 1 to pass a fresh order on the refund application of the petitioner dated 14-1-2022 after giving reasonable opportunity of hearing to the petitioner, including personal hearing. Let the said exercise be completed within a period of three months from the date of receipt of a copy of this order.

11. This disposes of the writ petition.

Miscellaneous applications pending, if any, shall stand closed. However, there shall be no order as to costs.

SB

*In favour of assessee.