

Lithium Urban Technologies Pvt. Ltd. vs Commissioner Of Value Added Tax & Anr. on 3 April, 2025

Author: Prathiba M. Singh

Bench: Prathiba M. Singh

\$~33

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 03rd April,

+ W.P.(C) 4925/2023

LITHIUM URBAN TECHNOLOGIES PVT. LTD.....Petitioner

Through: Mr. Sumit K Batra, Mr. Manish

Khurana, Ms. Priyanka Jindal & Mr

Siddhanth Sarwal, Advs.

versus

COMMISSIONER OF VALUE ADDED TAX

& ANR.

.....Respondent

Through: Mr. K.G. Gopalakrishnan, Ms. Nisha

Mohandas, Mr. Kunwar Raj Singh,

Advs. with Mr. Vinod Mann, GSTO-

Ward 88 & Mr. Poshinder Singh, LA

DTT, GNCTD.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The present petition has been filed under Article 226 of the Constitution of India seeking refund of the amount of Rs. 25,40,422/- along with interest. The case of the Petitioner is that refund was claimed in terms of the returns filed by it for the first quarter of 2017-18, and as per the Petitioner, the same ought to have been processed within two months in terms of Section 38(3)(a)(ii) of Delhi Value Added Tax Act, 2004 ('DVAT Act'). Since the refund was not granted, the Petitioner has filed the present petition.

3. Notice was issued in the present petition in 19th April, 2023.

4. According to the Respondent/Department, since April, 2023 when the writ was filed, the Respondent wrote to the Petitioner seeking the correct bank details as the earlier bank details which were on record of the Department were incorrect. Upon the proper bank details being furnished the refund was granted on 8th June, 2023. Interest amount is stated to have been paid for the period 7th February, 2023 till 8th June, 2023.

5. However, the Petitioner remains aggrieved by the non-grant of interest from September 2017, the

date from which the entitlement, according to him, arises. An order dated 5th July, 2023 regarding interest has, in fact, been passed by the Special Commissioner (Ward-88 Zone-VIII) . The same reads as under:

"Now, coming to the facts of the present matter, the dealer claimed refund amount of Rs.25,40,422/ in the return furnished for the 1st Quarter, 2017-18 on 25.07.2017 and in the said return, dealer had provided details of bank account as under:-

Account Number- 50200008519489 MICR Number- 560240008 Name of Bank- HDFC BANK LTD Address of Bank- 37/953, 24th Main, J.P nagar, Phase-II, Bangalore, Karnataka-560078 As the above bank details were not correct/updated, the same was updated by the dealer vide application in From DVAT-07 on 07.02.2023 which got approved on 17.02.2023. Here, it is relevant to mention that on 03.05.2023, a communication was sent to the dealer to update/provide bank details and in reply, he informed that bank details had already been provided vide amendment application on 07.02.2023.

In view of the above facts, it is quite clear that return for the relevant tax period was furnished on 25.07.2017 and two months expired on 25.09.2017 in terms of Section 38(3) of the DVAT Act. However, the return was furnished with the incorrect bank details and same was updated on 07.02.2023 and therefore, in view of the Explanation to Section 42(1) of the DVAT Act, delay in granting the refund from 25.09.2017 to 07.02.2023 is clearly attributable to the dealer and for the said period, he is also not entitled for the interest. Refund of Rs.25,40,422 has been issued on 08.06.2023 and therefore, dealer is entitled for interest for the period starting from 07.02.2023 up to 08.06.2023.

Accordingly, the calculation of interest on refund is detailed hereunder:

S.no. Financial Refund Date of Date from Period and Applicable Total Year Amount
furnishing whichNo. of Interest Interest the Bank Interest days on payable details
beingwhich calculated Interest is due.

1. 1st 25,40,422/- 17.02.2023 07.02.2023 07.02.2023 @6% 46,354 Quarter to of
2017- 08.06.2023 18 111 days "

6. A perusal of the above would show that the bank details of the Petitioner being incorrect, in view of explanation in Section 42(1) of the DVAT Act, the Special Commissioner has refused interest for the previous period. A perusal of Section 42(1) of the DVAT Act would show that whenever there is any mistake, the Explanation clearly provides as under:

"42 Interest Rule: 36(3 to Form:

5) 24 (1) (1)A person entitled to a refund under this Act, shall be entitled to receive, in addition to the refund, simple interest at the annual rate notified by the Government

from time to time, computed on a daily basis from the later of - (a) the date that the refund was due to be paid to the person; or

(b) the date that the overpaid amount was paid by the person, until the date on which the refund is given.

PROVIDED that the interest shall be calculated on the amount of refund due after deducting therefrom any tax, interest, penalty or any other dues under this Act, or under the Central Sales Tax Act, 1956 (74 of 1956):

PROVIDED FURTHER that if the amount of such refund is enhanced or reduced, as the case may be, such interest shall be enhanced or reduced accordingly.
Explanation.- If the delay in granting the refund is attributable to the said person, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which the interest is payable."

7. The documents which have been handed over are taken on record. It is noted that the Petitioner has not placed any correspondence on record from 2017 to 2023 as well.

8. In view of the Explanation to Section 42(1), since the mistake in the bank details would be attributable to the dealer, in the opinion of the Court, the Petitioner would not be entitled to any further interest. Therefore, the order dated 5th July, 2023 does not warrant any interference.

9. At this stage, Id. Counsel for the Petitioner submits that he wishes to withdraw the present petition. The petition is dismissed as withdrawn.

PRATHIBA M. SINGH JUDGE RAJNEESH KUMAR GUPTA JUDGE APRIL 3, 2025 dj/Ar.