

Chief Justice's Court

Case :- WRIT TAX No. - 1172 of 2024

Petitioner :- M/S TATA Aldesa (J.V.)

Respondent :- State of UP and 4 others

Counsel for Petitioner :- Nishant Mishra, Yashonidhi Shukla

Counsel for Respondent :- A.S.G.I., Pranjal Mehrotra, Priyanka Midha, Ankur Agarwal (SC)

Hon'ble Arun Bhansali,Chief Justice

Hon'ble Kshitij Shailendra,J.

1. This writ petition has been filed by the petitioner seeking a direction to the respondents to disburse the amount of refund of Rs.38,10,351/- sanctioned to the petitioner vide refund sanction order dated 12.02.2020 along with interest.

2. Submissions have been made that by order dated 12.02.2020 (Annexure-4), the amount along with interest was ordered to be refunded, however, the same has not been paid to the petitioner. When the matter came up before this Court on 20.09.2024, submissions of counsel for the respondents were noticed that he shall pursue the refund to be made to the petitioner with the authorities and act as per directions of the authorities of the Central Goods and Service Tax, who specifically directed the State authorities to make the payment.

3. On 8.11.2024, learned Standing Counsel for the SGST produced a communication dated 07.11.2024 indicating that the amount of refund to the tune of Rs.38,10,351/- has been credited to the Bank account of the petitioner on 07.11.2024.

4. Counsel for the petitioner on that day, made submissions that the amount which is claimed to be paid was required to be paid along with interest in terms of provisions of Section 56 of the Central Goods and Services Tax Act, 2017 ('CGST Act, 2017') which inter alia requires payment of interest at the rate of 6% per annum in case the refund is not

made within 60 days from the date of receipt of the application and as admittedly a completed application was received by the respondents on 07.02.2020, and the amount was paid on 07.11.2024, as such the petitioner is entitled to interest for the period beyond 60 days from the date of making application.

5. On the said submissions, counsel for the respondents was directed to make the payment of interest in terms of Section 56 of the CGST Act, 2017 to the petitioner before the next date and/or pass order in case the petitioner was not entitled to the amount of interest.

6. An order dated 20.11.2024 passed by the Deputy Commissioner, State Tax, Sector-1, Firozabad has been produced by the learned Standing Counsel *inter alia* though not holding that the petitioner is not entitled to interest under Section 56 of the CGST Act, 2017, however, disowning his liability and claiming that the interest was required to be paid by the CGST authorities and that the Proper Officer would be the Assistant Commissioner, CGST and Central Excise, Division Firozabad.

7. Counsel for the petitioner made submissions that the petitioner is least concerned with the fact pertaining to the inter se dispute between the State and the Central authorities. The petitioner admittedly is entitled to amount of interest for the delay in making payment under the provisions of Section 56 of the CGST Act, 2017 and, therefore, the same should be paid to him and the authorities can decide the liability/dispute among themselves.

8. Counsel appearing for the CGST authorities attempted to disown the liability with reference to the Circular dated 15.11.2017 (Annexure-13) *inter alia* on the ground that once the order has been passed by the Central authorities requiring the State authorities to make payment of the amount of refund along with the interest, the liability is that of the State authorities.

9. Having gone through the communication dated 05.04.2024 passed by the Assistant Commissioner, CGST & Central Excise, Division Firozabad, addressed to the Deputy Commissioner (Admn.), State Goods & Service Tax, Firozabad, the operative portion reads as under:

“In the above context, you are requested to disburse the unpaid refund amounting to Rs.38,10,351/- alongwith appropriate interest as per provisions of Circular No.17/17/2017 dated 15.11.2017 under intimation to this office and resolve the grievances of the taxpayer.”

10. Once the amount has been refunded in terms of the communication dated 05.04.2024, we do not find any good reason for not paying the interest in terms of Section 56 of the CGST Act, 2017 to the petitioner by the State authorities.

11. Insofar as the order passed seeking to disown the liability, for whatever reason, the issue is between the State authorities and the CGST authorities which will have to be resolved among them. The petitioner cannot be deprived of the amount of interest on account of the inter se dispute between the authorities.

12. Consequently, the petition is allowed. Respondent no.3 is directed to make payment of the amount of interest in terms of Section 56 of the CGST Act, 2017 and in terms of Circular No. 17/17/2017 dated 15.11.2017 as indicated in the communication dated 05.04.2014, to the petitioner, within a period of one month from today. It will be open for the respondent no.3 to resolve the dispute with the Central authorities in accordance with law. However, the payment of interest to the petitioner would not be dependent on the said resolution of dispute between the two authorities.

Order Date :- 2.12.2024

RK/Sandeep

(Kshitij Shailendra , J) (Arun Bhansali, CJ)