Infac India Pvt. Ltd. v. Deputy Commissioner of GST & Central Excise

Refund of wrongly adjusted interest on transitional credit under GST regime (Sections 49(5), 50(3), 140, 142(3) – Central Goods and Services Tax Act, 2017; Section 11B – Central Excise Act, 1944)

Date of Order: September 14, 2023
Case Law No: GIB-MHC-2023-05
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Facts :

- Petitioner wrongly transitioned balance from Personal Ledger Account as input tax credit under Section 140 of CGST Act.
- Refund was sanctioned, but ₹9,25,366 was adjusted towards interest on such utilization.
- Petitioner contended that sufficient Input Tax Credit was available and there was no loss to revenue.
- Dispute arose on legality of interest adjustment while granting refund.

Court Decision:

- Petitioner ought to have claimed refund under Section 11B of Central Excise Act read with Section 142(3) of CGST Act.
- Wrong transition of credit was acknowledged, but tax liability was subsequently squared up using available Input Tax Credit.
- There was no loss to revenue, as sufficient credit existed.

Directions:

- Deduction of ₹9,25,366 towards interest held unsustainable.
- Impugned order modified to that extent.
- Respondent directed to refund ₹9,25,366 to petitioner.
- Refund to be made within 8 weeks.

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