(2020) 11 GAU CK 0011

In the Gauhati High Court

Case No : Writ Petition (C) No. 5042 Of 2019

M/S. Bhavya Enterprise — APPELLANT

Vs

Union Of India And 8 Ors — RESPONDENT

Date of Decision : 11-11-2020

Acts Referred:

Integrated Goods And Services Tax Act, 2017 — Section 16(3)(b), 20
Central Goods And Services Tax, 2017 — Section 54

Citation : (2020) 11 GAU CK 0011

Hon'ble Judges : Soumitra Saikia, J

Bench : Single Bench

Advocate : D Saraf

Final Decision : Disposed Off

Judgement

1. Heard Mr. D. Saraf, learned counsel, appears for the petitioner and Mr. S.C. Keyal, learned Standing counsel appearing for the respondent nos. 1, 3, 4, 5, 7 and 8 Department of Customs and Excise. Mr. B. Gogoi, learned counsel appears for respondent no. 2, 6 and 9.

2. The petitioner is a sole-proprietorship concern carrying on the business of exports of various Goods and Services to neighbouring countries from India. It is represented by the proprietor, Sri Gaurav Agarwal. After the enactment of Goods and Services Tax Act, 2017, the petitioner got itself duly registered in respect of the business which it carries on, namely exports of various goods to Bangladesh and Nepal. The petitioner made a payment of Integrated Goods and Services Tax amounting to Rs.9,48,645.99 (Rupees nine lakhs forty eight thousand six hundred forty five and ninety nine paisa) only on the Goods exported out of India during the period July 2017 to September, 2017 to Mahadipur L.C. Station (West Bengal) and Raxuaul, L.C Station (Bihar).

3. According to the petitioner it is entitled to a refund of the entire amount paid on account of integrated Goods and Services Tax amounting to Rs.9,48,645.99

(Rupees nine lakhs forty eight thousand six hundred forty five and ninety nine paisa) only under Section 16(3)(b) read with Section 20 of the Integrated Goods and Services Tax Act, 2017 as well as Section 54 of the Central Goods and Services Tax, 2017 in accordance with the procedure prescribed. According to the petitioner the entire amount paid as customs is refundable. The petitioner claimed the refund by filing the necessary papers before the statutory authority. It is the claim of the petitioner that in addition to the on-line process, the petitioner had also filed manual applications, however, the Department did not entertain the claims for refund and the amount sought for as refund was not given to the petitioner. Being aggrieved, the petitioner filed the writ petition before this court.

4. Pursuant to Notice being issued in the matter by this court on 24.07.2019, it is submitted that meanwhile the Department had initiated the process for refund. It is informed in the court today that the principal amount sought for as refund by the petitioner has been granted on 23.09.2019 and 29.10.2020. It is agreed at the Bar that the principal amount claimed as refund has been received by the petitioner. The petitioner however, submits that there is a prayer for payment of interest @6% on the principal amount claim which has not been acted upon by the Department. He, therefore, submits that although the principal amount has been refunded back to the petitioner, the amount claimed as interest has not been acted upon by the Department as yet.

5. Upon hearing the learned counsel for the parties, it is seen that the petitioner did not prefer any application seeking payment of interest @6% on the principal amount. The learned counsel for the petitioner has very fairly submitted that the question of interest has been pursued upon only in the writ petition.

6. Accordingly, upon hearing the learned counsel for the parties since the principal amount has been already been received by the petitioner on the date mentioned above, the writ petition is closed permitting the petitioner to pursue its claim for interest before the appropriate authorities if so advised.

7. The petitioner is at liberty to furnish a copy of this order along with the claim for refunds to be filed before the authorities.

8. Upon such filing of the application with respect to interest before the Department, the authorities will, upon hearing the petitioner, pass appropriate orders as per the provisions of law.

9. The writ petition is accordingly closed and disposed of.

10. No order as to Cost.

