

(2025) 04 JH CK 1284
In the Jharkhand High Court
Case No : W.P. (T) No. 7091 Of 2023

M/s. Castrol India Limited

APPELLANT

Vs

State Of Jharkhand, through the Secretary

RESPONDENT

Date of Decision : 03-04-2025

Acts Referred:

Constitution of India, 1950 — Article 14, 19(1)(g), 265
Jharkhand Value Added Tax Act, 2005 — Section 35(6), 55, 79
Jharkhand Value Added Tax Rules, 2006 — Rule 19(5)

Citation : (2025) 04 JH CK 1284

Hon'ble Judges : M.S. Ramachandra Rao, CJ; Deepak Roshan, J

Bench : Division Bench

Advocate : M.S. Mittal, Salona Mittal, Ishika Tulsyan, Ashok Kumar Yadav, Aditya Kumar

Final Decision : Allowed

Judgement

Deepak Roshan, J.

1. The instant writ application has been preferred by the petitioner for following reliefs;

(i) For the issuance of an appropriate writ / order / direction including a writ in the nature of a mandamus, directing the Respondent Authorities to forthwith refund an amount of Rs. 1,47,62,037/- for A.Y. 2011-12 as indicated in the excess demand notice dated 31.8.2020 issued by the Respondent Department itself along with statutory interest under Section 55 of the Jharkhand Value Added Tax Act, 2005, from the date of issuance of excess demand notice.

(ii) For the issuance of an appropriate writ/order/direction including a writ in the nature declaration declaring that the deliberate inaction of the Respondent Authorities to decide the refund application of the Petitioner within 90 days from the receipt thereof amounts to violation of Articles 14, 19(1)(g) and 265 of the Constitution of India.

(iii) For the issuance of an appropriate writ/order/ direction including a writ in the nature of certiorari quashing the letter dated 9.5.2023 (Annexure-9) whereby the Respondents have insisted on satisfaction of outstanding dues of other assessment years before issuing an order of refund, in view of the fact that the JVAT Act does not envisage denial of Refund Application on the ground of existing dues as held by this Hon'ble Court in W.P.(T) No. 4783 of 2022 (M/s. Kirloskar Brothers Limited v. State of Jharkhand & Ors.) vide order dated 10.5.2023.

(iv) For the issuance of any other and further appropriate writ (s) or direction(s) or order(s) that this Hon'ble Court may deem fit and proper in view of the facts and circumstances of the case for doing conscionable justice to the Petitioner.

2. At the outset, it is pertinent mention that during pendency of the instant application, the respondents refunded the principal amount of tax on 29.03.2024 and now the only prayer for which the petitioner has contended is with regard to payment of interest.

3. The brief facts of the case as per the pleadings are that on 19.03.2015, the petitioner faced a tax liability of Rs. 12,53,62,383/- during the Assessment Year 2011-12, as determined by a regular Assessment Order under Section 35(6) of the JVAT Act.

Thereafter, the Petitioner received a notice of demand (Form-JVAT 300) stating 'NIL' amount is payable, as the Petitioner had already paid Rs. 12,56,00,362/-, and the excess of Rs. 2,37,979/- was to be adjusted against the Central Sales Tax Act 1956.

However, being aggrieved by the Assessment Order, the Petitioner preferred an appeal under Section 79 of the JVAT Act. The Appellate Authority being satisfied by the Petitioner's case, ordered remand of the case to the Assessing Officer for passing a new Assessment Order in compliance with legal requirements.

On remand, the Petitioner's total tax liability, as per the reassessment was reduced to Rs. 11,06,00,346/- from the original assessment order. However, the Petitioner received an excess demand notice dated 31.08.2020 only on 15.12.2022, i.e. after more than two years stating that the excess tax amount paid by the Petitioner amounts to Rs. 1,47,62,037/-, considering their prior payment of Rs. 12,56,00,362/- and an adjustment of Rs. 2,37,979/- under the Central Sales Tax Act, 1956.

The Petitioner after receiving the excess demand notice on 15.12.2022 promptly filed an electronic Refund Application within the stipulated period 90 days deadline seeking a refund of Rs. 1,47,62,037/-. Subsequently, the Petitioner, due to a delay in processing their refund application, sent a letter to the Respondents requesting for issuance of a refund voucher which was duly accepted by the Respondents. Pursuant thereto, the Petitioner received a letter from the Respondents stating other outstanding tax liabilities and requesting an explanation regarding the payment status of these amounts. The Petitioner

submitted a letter to the Respondents explaining the status of their tax-related matters.

4. Learned senior counsel representing the Petitioner submits that since the respondents arbitrarily neglected the Petitioner's Refund Application, the Petitioner again requested the Respondents for immediate issuance of the Refund Voucher with statutory interest. He further submits that the Court in W.P.(T) No. 4783 of 2022 (M/s. Kirloskar Brothers Limited v. State of Jharkhand & Ors.) ruled that the JVAT Act does not permit the denial of a Refund Application based on existing dues under Rule 19(5) of the JVAT Rules. Reliance was placed in the case of Global Energy Ltd. & Anr. versus Central Electricity Regulatory Commission, reported in (2009) 15 SCC 570.

5. Per-contra, the only stand which has been taken in the counter-affidavit is that the application of the petitioner has been duly processed and after determining its tax liabilities, the respondent department is in a process of releasing the said amount and for the same a request for allotment of funds has been made, a copy of the letter is also annexed as Annexure-A to the counter-affidavit.

6. As aforesaid, during pendency of the instant application, the respondents refunded the principal amount of tax on 29.03.2024. However, we observe that the Counter Affidavit is silent on the aspect of statutory interest that the Petitioner is entitled to receive under Section 55 of the JVAT Act. Further, the mandate of Section 55 of JVAT Act is that Refund Application ought to be decided within 90 days of the date of its filing. Reference in this regard may be made to the decision of this Court rendered in the case of M/s. Kirloskar Brothers Ltd. v. State of Jharkhand & Ors. (WPT No. 4783/2022).

Further there is no mention in the Counter Affidavit as to why this delay in processing the Refund Application of the Petitioner is being caused. Further, non-allocation of funds cannot be a reason to delay the legitimate refund of the Petitioner, otherwise the very mandate of Section 55 of the JVAT Act will be rendered otiose.

7. At this stage it is also necessary to indicate that the Petitioner has categorically stated in Paras 17, 21, 43 and 44 of the Writ Petition that the excess demand notice dated 31.08.2020, was received by the Petitioner only on 15.12.2022 and therefore, interest ought to be paid from the date of issuance of excess demand notice itself since the Petitioner was unable to file its Refund Application in absence of the excess demand notice. No reply, whatsoever, has been given by the Respondents to such averments made in the Writ Petition and no proof of service of the "Demand Notice" has been brought on record by the Respondents and thus the statements made in these paragraphs under reference are deemed to have been admitted by the Respondents.

8. As a result, the Respondents are liable to pay interest to the Petitioner, from the expiry of 90 days from the date of submission of the "Refund Application" pursuant to receiving of the Demand Notice as claimed by the petitioner on

15.12.2022 and also interest from the date of issuance of Demand Notice dated 31.08.2020 since the Petitioner was unable to file its Refund Application in absence of the excess demand notice till the payment of the principal amount during pendency of this application. Further since the Department has accepted the refund being made to the Petitioner, payment of interest would be a necessary corollary. The interest awarded is a measure of recompense settled that refund due and payable to the assessee is a debt owed and to the Assessee for the time that it was deprived the use of its funds.

9. Thus we hold that the petitioner has been denied the refund of excess amount deposited by it since 31.08.2020 i.e. date of issuance of excess demand notice and no justification has been given as to why the said demand notice was served only in the year December, 2022. Further, no reasons have been assigned as to why even after filing of the refund application on 17.02.2023 the same has been kept pending till payment of the principal amount i.e. on 29.03.2024.

10. Accordingly, we are of the opinion that the petitioner is entitled for 6% Simple Interest on the total amount of refund from 31.08.2020 i.e. the date of issuance of Demand Notice as stated hereinabove till the principal amount has been paid, after reducing the period which the petitioner took in filing the Refund application after receiving the same from the Respondents on 15.12.2022. Accordingly, it is directed that the respondents shall pay the interest after calculating the same as indicated hereinabove.

11. The entire payment of interest shall be made to the Petitioner within a period of eight weeks from the date of receipt/production of copy of this order; failing which the Petitioner shall also be entitled for cost of Rs.1,00,000/-.

12. Consequently, the instant writ application stands allowed. Pending I.A.s, if any, also stand closed.