Court No. - 50

Case :- WRIT TAX No. - 3189 of 2025

Petitioner :- Bharat Mint & Aroma Chemicals
Respondent :- Union Of India And 2 Others
Counsel for Petitioner :- Abhinav Mehrotra,Bhavna Mehrotra,Satya Vrata Mehrotra
Counsel for Respondent :- Parv Agarwal

Hon'ble Ajay Bhanot,J.

1. By the impugned order the application filed by the petitioner claiming refund of excess CGST claimed has been declined. The appellate authority while rejecting the claim has opined as under:

"From above legal provisions I observed that the appellant is eligible for a refund of an amount of Rs. 12,84,595/- (CGST) on account of "Tax paid on intra-state supply later held to be inter-state supply and vice versa" but they have filed RF01 under wrong head i.e. IGST head. Further, I find that the appellant has been failed to adduce any evidence to buttress their claim. In absence of concrete documentary proof, I am a view of the appellant is not eligible for refund in terms of Section 77(1) of the CGST Act, 201. In such view, I do not find any occasion to interfere in the impugned order and the same appers to be just, legal and proper."

2. Shri Abhinav Mehrotra, learned counsel and Ms. Bhavna Mehrotra, learned counsel for the petitioner submit that the excess tax amount was recorded under the heading of integrated tax instead of central tax in the form GST RFD 01. The aforesaid error occurred on account of a software glitch and not any incorrect typographical insertion made by the petitioner. Either which ways this

was a technical error and petitioner ought not to have been non suited without adverting to the merits of the claim.

3. Per contra Shri Parv Agarwal, learned counsel for the respondent submits that the refund claims which are not in proper format cannot be processed and hence there is no infirmity in the impugned order.

4. Heard learned counsel for the parties.

5. Admittedly, the application tendered by the petitioner (which is part of the Revenue's records) had made a claim for refund of CGST tax. However, in the form for the tax refund, the amount was entered under an incorrect head. The cause for such error is not relevant. There is no dispute between the parties that the petitioner was entitled to CGST refund. Citation of a wrong provision or typographical error in the forms submitted along with the application cannot be the basis for rejecting the substantive claims of the petitioner or denying rights accruing to the petitioner. The appellate authority neglected to consider the application filed by the petitioner containing the true nature of the amount claimed by the petitioner. The aforesaid claims have to be adjudicated on merits by the competent authority. By failing to determine the controversy on merits, and by declining the claim on the aforesaid technicality the appellate authority has erred in law.

6. The second ground resided in the impugned order is that the petitioner had failed to "adduce any evidence to buttress their claims". The aforesaid finding is in excess of the show cause notice issued to the petitioner in this regard. Admittedly the show cause notice did not notice the petitioner on the said infirmity and returned an adverse finding against without affording any opportunity of hearing. The second finding has been passed in violation of principles of natural justice.

7. In the wake of the preceding discussion the impugned orders dated 29.12.2023 and 03.12.2024 are liable to be quashed and are quashed.

8. The matter is remitted to the appellate authority for fresh determination in light of the observations made in this order.

9. The writ petition is allowed to the extent indicated above.

Order Date :- 1.8.2025
Vandit

Digitally signed by :-
VANDIT AGRAWAL
High Court of Judicature at Allahabad