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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 16<sup>th</sup> March, 2023*

+ **W.P.(C) 3209/2023 & CM APPL. 12488/2023, CM APPL. 12489/2023**

EUNIKE GENERAL TRADING ..... Petitioner  
Through: Ms. Priyanka Goel and  
Mr. R. P. Singh, Advs.

versus

COMMISSIONER OF GOODS AND SERVICE  
TAX, WEST, DELHI ..... Respondent  
Through: Mr. Aditya Singla and  
Mr. Anand Solanki, Advs.

**CORAM:**  
**HON'BLE MR. JUSTICE VIBHU BAKHRU**  
**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**VIBHU BAKHRU, J. (Oral)**

1. The petitioner has filed the present petition, *inter alia*, praying that a writ, order or direction be issued to unblock the bank account in respect of the amount of ₹34,48,080/-, which relates to the refund sanctioned and credited in the petitioner's bank account. The petitioner also prays that an appropriate direction be issued to the petitioner's bank to unblock the amount of ₹34,48,080/-, which has been blocked at the instance of the respondent.

2. The petitioner states that the said refund has been granted by an order dated 05.08.2022. Thereafter, the said order was subject to an audit and a review, pursuant to which the petitioner was directed to deposit a sum of ₹38,786/- as an amount erroneously refunded.

3. The petitioner states that it has voluntarily deposited the said amount of ₹38,786/- as directed. However, notwithstanding that the petitioner has complied with the said direction, the balance amount of the refund granted by the respondent continues to be blocked.

4. Ms Goel, the learned counsel for the petitioner submits that it is not open for the respondents to indefinitely block the petitioner's bank account and in the event, the respondent finds that the order of refund is erroneous or requires review, it would be necessary for the respondent to take recourse to Section 107(2) of the Central Goods and Services Tax Act, 2017 (**the Act**).

5. Mr Singla points out that the petitioner had filed a writ petition captioned ***Eunike General Trading v. Commissioner of Goods and Service Tax West And Ors : W.P.(C) 16739/2022*** seeking similar relief and the same was disposed of by the order dated 15.12.2022.

6. It is relevant to note the prayers made in the said writ petition. The same read as under:

*“a) issue a Writ of Mandamus or Certiorari, or any other appropriate Writ, Order or direction, calling for the papers and proceedings leading to the records relating to blocking of sanctioned refund of Input Tax Credit of the Petitioner to the tune of Rs.3448080/- (Rupees Thirty Four Lakh Forty Eight Thousand and Eighty Rupees) and after looking into the same and the legality thereof, this Hon'ble Court be pleased to quash and set aside the action of Respondents regarding blocking of the sanctioned refund of Input Tax Credit of the Petitioner;*

*b) issue a writ of mandamus or any other appropriate writ or direction to direct the respondent no. 4 to unblock the amount of Rs. 3448080/- Rupees Thirty Four Lakh Forty Eight Thousand and Eighty Rupees) lying in the bank account of Petitioner.”*

7. This Court had, in the order passed on 15.12.2022, noted

the respondents' contention that the action for blocking the petitioner's bank account had been taken on three grounds. First, that there had been a mismatch in the payment made by the petitioner to the supplier in respect of the goods that are stated to have been exported. Second, there was a doubt as to whether any goods were procured from the supplier in question. And third, that the petitioner had also procured goods from another supplier whose registration was *suo motu* cancelled.

8. It was also the respondents' contention that in addition to the input credit of ₹34,48,080/- a sum of ₹15 Lacs had been released earlier.

9. Considering the above submissions made by the parties, this Court had directed the freezing of the bank accounts to be confined to ₹50 Lacs. The operative part of the order dated 15.12.2022 is set out below:

*"5. In view of the above, the order issued under Section 83 of the CGST Act, 2017 would be confined to freezing the petitioner's bank account to the extent of ₹50 lacs. In another words, the petitioner would not be entitled to withdraw any amount from the bank account till a credit balance of ₹50 lacs is achieved. The petitioner would be entitled to operate the bank account and withdraw any amount in excess of a credit balance of ₹50 lacs.*

*6. Insofar as the reasons for taking an action under Section 83 of the CGST Act is concerned, the learned counsel for the respondents states that the counter-affidavit, filed in this Court, may be considered as the reasons for taking the said action.*

*7. The petitioner had approached this court as its bank account was blocked by issuing a letter to the concerned bank and without passing any order under the CGST. The respondents have now passed an order under Section 83 of the CGST Act. In view of the above, the petition is disposed of.*

*8. It is clarified that all rights and contentions of the petitioner are reserved to take statutory remedies."*

10. Ms Goel's contention that it is necessary for the respondents to immediately file a review or appeal against the

order granting refund, is *prima facie*, not merited.

11. Section 73 and 74 of the Act also provide for recovery of refund where the same has been erroneously granted. Clearly, if the respondents are of the view that the refund has been erroneously granted, they would be required to take appropriate action under Section 73 or 74 of the Act. Recourse to Section 107(2) may be necessary only if the Adjudicating Authority has adjudicated any contentious issue, which in the opinion of the Commissioner requires to be reviewed.

12. Insofar as the blocking of the bank account is concerned, the said action is taken under Section 83 of the Act. By virtue of sub-section (2) of Section 83 of the Act, the said order of attachment ceases to be operative on expiry of a period of one year from the date of the order. The respondents are required to adhere to the said discipline.

13. Considering the averment that the auditor has already reviewed the petitioner's case and has directed refund for the sum of ₹38,786/-, we consider it apposite to direct the respondent to reconsider the petitioner's request for lifting of the block placed on the petitioner's bank account and continue the same only if it is satisfied that the conditions as specified in Section 83 of the Act continue to exist.

14. The petition is disposed in the aforesaid terms. All the pending applications are also disposed of.

**VIBHU BAKHRU, J**

**AMIT MAHAJAN, J**

**MARCH 16, 2023**

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W.P.(C) 3209/2023