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

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*Date of Decision: 24<sup>th</sup> August, 2023*

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**W.P.(C) 8182/2023 & CM APPL. 43743/2023**

SOLIDUM AND STARS GUILD LLP THROUGH  
ITS DESIGNATED PARTNER ..... Petitioner

Through: Mr. Aseem Mehrotra, Adv.

versus

COMMISSIONER, CENTRAL TAX,  
APPEALS-II, DELHI, & ANR. .... Respondents

Through: Mr. R. Ramachandran, Senior  
Standing Counsel.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**VIBHU BAKHRU, J.**

1. The petitioner has filed the present petition impugning an Order dated 05.08.2021, passed by the Adjudicating Authority, rejecting the petitioner's application for refund of the Input Tax Credit (hereafter 'ITC') amounting to ₹76,76,106/- (CGST - ₹38,38,053/- and SGST - ₹38,38,053/-). The petitioner also impugns an Order-in-Appeal dated 31.05.2022, whereby the petitioner's appeal against the aforesaid Order dated 05.08.2021, was rejected. The said orders are collectively referred to as the 'impugned orders'.
2. The petitioner had filed an application dated 21.05.2021 claiming refund of the aforesaid amount of ₹76,76,106/-, relating to ITC in respect of goods exported during the period November 2020 to March 2021.
3. The filing of the said application was acknowledged by the



concerned authority in the requisite form (GST-RFD-02). Thereafter, the Adjudicating Authority issued a Show Cause Notice dated 19.07.2021, proposing to reject the petitioner's claim for the reasons as reproduced below:

Sl. No.	Description of Issue
1.	Your supplier/s have been reported as Non-Existent by the respective jurisdictional CGST authorities.
2.	Mismatch in invoice and FOB values.

4. The petitioner responded to the said Show Cause Notice enclosing therewith details of all the vendors; their respective GSTIN; and the particulars of the invoices.

5. The petitioner, *inter alia*, claimed that the purchases made were genuine from dealers that were registered.

6. Notwithstanding the above, the Adjudicating Authority rejected the petitioner's application for refund by the impugned order dated 05.08.2021. The Adjudicating Authority found that on verification, one of the suppliers named M/s Siddhi Impex (GSTIN: 07EUOPS8731J1ZR) was found to be non-existent.

7. The impugned order dated 05.08.2021 records that verification was conducted by the office of the Assistant Commissioner, Division Old Delhi, CGST Delhi North and it was informed that on physical verification, the said entity was found to be non-existent at their registered place of business.

8. Based on the aforesaid information, the Adjudicating Authority rejected the petitioner's claim for refund.

9. It is material to note that there was no allegation in respect of



any of the other suppliers, the details of which were provided by the petitioner.

10. The petitioner preferred an appeal under Section 107 of the Central Goods and Services Tax Act, 2017. However, as noted above, the petitioner's appeal was rejected by the impugned Order-in-Appeal dated 31.05.2022.

11. The said impugned order indicates that the Appellate Authority had considered the details of invoices furnished by the petitioner and had found that two invoices pertained to M/s Siddhi Impex. The ITC in respect of the two invoices amounted to ₹21,76,260/- (₹12,13,872/- + ₹9,62,388/-). The Appellate Authority noted that the said supplier was found to be non-existent and concluded that the appellant '*had not received any input/input services from M/s Siddhi Impex*' and had claimed refund fraudulently on the strength of the invoices issued by M/s Siddhi Impex.

12. On the basis of the aforesaid reasoning, the Appellate Authority rejected the petitioner's appeal. There was no allegation regarding any of the other suppliers, the details of which were supplied by the petitioner.

13. Pursuant to the physical verification of M/s Siddhi Impex, the registration of the said supplier was cancelled. The petitioner voluntarily deposited the amount of ₹21,76,260/-, being the amount of refund claimed in respect of the two invoices of Siddhi Impex, in its electronic credit ledger.

14. Mr. Aseem Mehrotra, learned counsel appearing for the petitioner, does not seek to question the decision of the Adjudicating



Authority or the Appellate Authority in rejecting the petitioner's claim for refund in respect of the ITC in relation to the supplies received from M/s Siddhi Impex; he has confined his relief to the refund of the ITC in respect of inputs received from other suppliers, amounting to ₹54,99,846/-.

15. As noted above, there is no allegation regarding any irregularity in respect of the supplies made by the suppliers other than M/s Siddhi Impex. There is also no dispute as to the quantum of the ITC in respect of those supplies. Neither the Adjudicating Authority nor the Appellate Authority has raised any doubt in respect of those supplies.

16. Thus, we find no reason whatsoever for denial of refund in respect of ITC pertaining to supplies made by suppliers other than M/s Siddhi Impex.

17. In view of the above, the present petition is allowed. The impugned orders are set aside to the extent as aforesaid.

18. The Adjudicating Authority is directed to process the petitioner's claim for a sum of ₹54,99,846/- pursuant to its application dated 21.05.2021, along with interest, in accordance with law as expeditiously as possible and preferably within a period of four weeks from today.

19. The petition is allowed in the aforesaid terms.

**VIBHU BAKHRU, J**

**AMIT MAHAJAN, J**

**AUGUST 24, 2023 / 'KK'**