



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3711 OF 2022

Trafigura Global Services Pvt. Ltd.)...Petitioner
V/s.
Central Board of Indirect Taxes and)
Customs and Another)...Respondents

Mr. Shashank Shekhar a/w. Mr. Tushar Joshi i/b. Trilegal,
Advocate for the Petitioner.

Mr. Jitendra B. Mishra a/w. Mr. Ashutosh Mishra, Advocate
for the Respondents.

CORAM : NITIN JAMDAR AND
ABHAY AHUJA, JJ.

DATE : 12 APRIL 2023

P.C.

Heard the learned Counsel for the parties. Taken up for
disposal.

2 The Petitioner has challenged the order passed by the
Deputy Commissioner, Central Goods & Services Tax and
Central Excise (CGST & CEx), Division-IV, Mumbai (East)
dated 27 May 2022 rejecting the Refund Application

Reference No.(ARN):AA2703180801267 filed by the Petitioner.

3 A perusal of the order would indicate that the order is passed primarily on the ground that refund claim is time barred.

4 The Petitioner is engaged in the business of rendering administrative and various support services to certain companies located abroad. According to the Petitioner, the Petitioner provided various back-office support services without payment of integrated tax under Letter of Undertaking as per Section 16 of the Integrated Goods and Service Tax Act, 2017 (IGST Act) and thereafter was entitled for refund for which Petitioner applied on 5 March 2019. The Petitioner received a notice under Form GST-RFD-08 proposing to reject the Refund Application on the ground that it was barred by limitation of time. The Petitioner replied and informed that Petitioner had submitted the application on common portal, however, the documents were submitted online and thereafter the Petitioner also filed the application manually. The Commissioner rejected the application for refund on the ground that statutory limit of sixty days would be in the

context of physical submission of the application and relied upon the Circular No. 17/17/2017 dated 15 November 2017.

5 The learned Counsel for the Petitioner has relied upon decision of the Division Bench of Gujarat High Court in the case of *M/s. Chromotolab and Biotech Solutions vs. Union of India*¹ to contend that the Division Bench has taken a view that the date on which the online application is filed should be taken into consideration and not the date of physical application. No contrary decision is shown to us. However, even proceeding on the basis that the decision of the Division Bench of Gujarat High Court is applicable, still the facts in the Petitioner's case would have to be examined as to whether the Petitioner is entitled to the law laid down and this enquiry will have to be conducted by the Deputy Commissioner.

6 The learned Counsel for the Petitioner also contends that the Deputy Commissioner has rejected the Refund Application on the ground that the order passed by the Hon'ble Supreme Court in the *Suo Moto Writ Petition (C) No.3 of 2020 In Re. Cognizance for Extension of Limitation* is not applicable in view of the Circular No.17/17/2017-GST dated 15 November 2017 and this view has been held to be incorrect by the

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decision of this Court in the case of *Saiher Supply Chain Consultant Pvt. Ltd. vs. Union of India*², and therefore, atleast part of the refund should have been granted.

7 In these circumstances, we are of the opinion that the impugned order needs to be quashed and set aside and the Refund Application of the Petitioner be restored to file to be proceeded from the stage of issuance of Form GST-RFD-08. Order accordingly.

8 The Deputy Commissioner will give opportunity of hearing to the Petitioner and thereafter proceed to pass appropriate order as per law after taking into consideration the observations made above.

9 The proceedings be accordingly decided, subject to earlier time bound commitments within a period of twelve weeks, after giving an opportunity of hearing to the Petitioner.

10 The Writ Petition stands disposed in the above terms.

(ABHAY AHUJA, J.)

(NITIN JAMDAR, J.)

² 2022 (63) G.S.T.L. 415 (Bom.)