



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF DECEMBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 11076 OF 2024 (T-RES)

BETWEEN:

1. M/S PRIME PERFUMERY WORKS
INCORPORATED UNDER
THE INDIAN PARTNERSHIP ACT
REPRESENTED BY ITS PARTNER
SRI MOHAMMED NASRULLA SHARIFF
AGED ABOUT 53 YEARS
NO.10, 11TH CROSS, SOMESHWARA NAGAR
JAYANAGAR IST BLOCK
BENGALURU - 560 011

...PETITIONER

(BY SRI. SHANKARE GOWDA M.N., ADVOCATE)

AND:

1. ASSSITANT COMMISSIONER OF CENTRAL TAX
SOUTH DIVISION-3
BEGNALURU SOUTH COMMISSIONERATE
2ND FLOOR, BMTc BUILDING
KANAKAPURA ROAD
BANASHANKARI
BENGALURU-560070
2. GOVERNMENT OF INDIA
MINISTRY OF FINANCE
DEPARTMENT OF REVENUE
CENTRAL BOARD OF INDIRECT TAXES AND
CUSTOMS





GST POLICY WING
NEW DELHI-110011

...RESPONDENTS

(BY SRI. JEEVAN J. NEERALGI, ADVOCATE FOR R1

SRI. CHARAN KUMAR K.V., ADVOCATE FOR R2)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE REFUND REJECTION ORDER DATED 31/01/2024, IN FORM GST RFD-06 (ANNEXURE-Z5) ISSUED BY THE R1 U/S 54 R/W RULE 92 OF THE CGST RULES FOR THE PERIOD 2022-23 AND PRAYED THAT THIS HONBLE HIGH COURT MAY BE PLEASED TO DIRECT THE R1 TO ISSUE REFUND SANCTION ORDER IN FORM GST RFD-06 ALLOWING THE PETITIONERS APPLICATIONS FILED FOR REFUND IN FORM GST RFD-01, (ANNEXURE-Y) IN THE PETITIONERS CASE.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, petitioner seeks the following reliefs:

"The Petitioner most respectfully prays that this Hon'ble High Court may be pleased to issue a Writ of Certiorari or a direction in the nature of a Writ of Certiorari quashing the refund rejection order dated 31.01.2024, In Form GST RFD-06 (Annexure-Z5) Issued by the 1st Respondent u/s 54 r/w Rule 92 of the CGST Rules for the period 2022-23 and prayed that this Hon'ble High Court may be pleased to direct the 1st Respondent to Issue refund sanction order In Form GST RFD-06 allowing the Petitioner's application filed for refund in Form GST RFD-01, (Annexure-Y), In the Petitioner's case.

This Hon'ble High Court may be pleased to issue such other writ or writs or directions in the nature of a writ as



this Hon'ble High Court may deem it fit to grant in the facts and circumstances of the Petitioner case."

2. A perusal of the material will indicate that the petitioner exported goods during 2022-23 and thereafter filed a refund application dated 03.12.2023 seeking refund of IGST from the respondents who issued a show cause notice dated 28.12.2023 calling upon the petitioner to show cause as to why the refund request should not be rejected. The petitioner filed a reply dated 11.01.2024 to the aforesaid show cause notice, pursuant to which the first respondent passed impugned refund rejection order dated 31.01.2024, aggrieved by which, the petitioner is before this Court by way of the present petition.

3. A perusal of the impugned order rejecting the refund rejection order at Annexure-Z5 dated 31.01.2024 will indicate that the only one ground on which respondents rejected refund of the petitioner on the ground that the petitioner had not submitted a bond/LUT (Letter of Undertaking) or in Form GST RFT-ii to the



jurisdictional Commissioner prior to export of the goods, as per Rule 19(A) of the CGST Rules. In this context, learned counsel for the petitioner invited my attention to the Circular dated 15.03.2018, in particular paragraph No.4 in order to contend that the said requirement of furnishing Bond/LUT prior to export was only directory and not mandatory and it was open for a person seeking refund to subsequently file such an LUT/Bond by condoning the delay and the same may be allowed on ex post facto basis taking into account facts and circumstances of each case. It is submitted that while rejecting refund request of the petitioner, the first respondent has not considered the said Circular and as such, the impugned order may be set aside and the matter remitted back to the first respondent for reconsideration of refund request of the petitioner by permitting the petitioner to furnish/submit LUT/Bond along with an application for condonation of delay in terms of the paragraph Nos.4 and 4.1 of the Circular dated



15.03.2018 and section 16(3) of the CGST Act read with Rule 96-A of the CGST Rules.

4. Per contra, learned counsel appearing for the respondents would support impugned order and submit that requirement of furnishing LUT/bond prior to export is mandatory and not directory and as such, there is no merit in the petition and the same is liable to be dismissed.

5. Before advertng to the rival contentions, it would be necessary to extract the Circular dated 15.03.20218 at Annexure-Z3 which reads as under:

*"F. No.349/47/2017-GST
Government of India
Ministry of Finance Department of Revenue
Central Board of Excise and Customs
GST Policy Wing*

New Delhi, Dated the 15th March, 2018

*To,
The Principal Chief Commissioners/Chief
Commissioners/Principal Commissioner
Commissioners of Central Tax (All)
The Principal Directors General Directors General
(All)*

Madam/Sir,



Subject: Clarifications on exports related refund issues regarding

Board vide Circular No. 17/17/2017-GST dated 15 November 2017 and Circular No. 24/24/2017 - GST dated 21" December 2017 clarified various issues in relation to processing of claims for refund. Since then, several representations have been removed seeking further clarifications on issues relating to refund. In order to clarify these ins and with a view to ensure uniformity in the implementation of the provisions of the law across field formations, the Board, in exercise of its powers conferred by section 164 (1) of the Central Goods and Services Tax Act, 2017 (CGST Act), hereby clarifies the issues raised na below:

2. Non-availment of drawback: The third proviso to sub-section (3) of section 54 of the CGST Act states that no refund of input tax credit shall be allowed in cases where the supplier of goods or services or both avails of drawback in respect of central tax.

2.1 This has been clarified in paragraph 8.0 of Circular No. 24/24/2017-GST, dated 21 December 2017. In the said paragraph, reference to "section 54(3)(ii) of the CGST Act is typographical error and it should read as "section 54(3)(i) of the CGST Act". It may be noted that in the said circular reference has been made only to central tax, integrated tas, State/Union territory tax and not to customs duty leviable under the Customs Act, 1962. Therefore, a supplier availing of drawback only with respect to basic customs duty shall be eligible for refund of unutilized input tax credit of central tax/State tax/Union territory tax/integrated tax/compensation cess under the said provision. It is further clarified that refund of eligible credit on account of State tax shall be available has availed even if the supplier of services or both has availed of drawback in respect of central tax.



Amendment through Table 9 of GSTR-1: It has been reported that refund claims are not being processed on account of mis-matches between data contained in FORM GSTR-L FORM GSTR-3B and shipping bills bills of expert. In this connection, it may be allows for amendments of invoices/ shipping hills details furnished in FORM GSTR-1 noted that the Dacility of filing of Tahle in FORM GSTR-La amendment table which earlier tax period, is already available. If a taxpayer has committed error while entering the details of an invoice / shipping bill/bill of export in Table 64 or Table 6 of FORM GSTR-1, he can rectify the same in Table 9 of FORM GSTR-1.

3.1. It is advised that while processing refund claims on account of zero rated supplies information contained in Table 9 of FORM GSTR-1 of the subsequent tax periods should be taken into cognizance, wherever applicable.

3.2. Field formations are also advised to refer to Circular No. 26/26/2017-GST dated December, 2017, wherein the procedure for rectification of errors made while filing the returns in FORM GSTR-3B has been provided. Therefore, in case of discrepancies betwee the data furnished by the taxpayer in FORM GSTR-3B and FORM GSTR-1, the officer shall refer to the said Circular and process the refund application accordingly.

4. Exports without LUT: Export of goods or services can be made without payment of integrated tax under the provisions of rule 96A of the Central Goods and Services Tax Rules, 2017 (the CGST Rules). Under the said provisions, an exporter is required to furnish a bond or Letter of Undertaking (LUT) to the jurisdictional Commissioner before effecting zero rated supplies. A detailed procedure for filing of LUT has already been specified vide Circular No. 8/8/2017-GST dated 4th October, 2017. It has been brought to the notice of the Board that in some cases, such zero rated supplies have



been made before filing the LUT and refund claims for unutilized input tax credit have been filed.

4.1. In this regard, it is emphasised that the substantive benefits of zero rating may not be denied where it has been established that exports in terms of the relevant provisions have been made. The delay in furnishing of LUT in such cases may be condoned and the facility for export under LUT may be allowed on ex post facto basis taking into account the facts and circumstances of each case.

xxx"

6. As can be seen from the aforesaid Circular, non-furnishing/non-submission of LUT/Bond in terms of Rule 96-A of the CGST Rules is not an incurable defect nor can the same be said to be mandatory especially when the respondents themselves have permitted the petitioner to file such LUTs/bonds even subsequent to export and the same is permitted to be allowed on ex post facto basis taking into account facts and circumstances of each case including the purpose for availing refund as sought for by the petitioner. However, the respondent No.1 while rejecting refund claim of the petitioner has neither considered nor appreciated the said Circular dated 15.03.2018 and consequently, I deem it just and



appropriate to set aside the impugned refund rejection order dated at Annexure-Z5 and remit the matter back to the first respondent for reconsideration afresh in accordance with law.

7. In the result, I pass the following:

ORDER

- i) The writ petition is ***allowed***.
- ii) Annexure-Z5 dated 31.01.2024 is hereby set aside.
- iii) The matter is remitted back for reconsideration of the refund application at Annexure-Y in accordance with law for the year 2022-23, bearing in mind the observations made in the body of this order as well as Circular dated 15.03.2018.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

BSV
List No.: 2 Sl No.: 25