

Issue Involved

Whether interest is payable by Department on delay in discharging GST refund under Budgetary Support Scheme? {Section 54 of the CGST Act, 2017}

Held that

Interest is not payable for delay in disbursement of GST refund under Budgetary Support Scheme to units which were availing area-based exemption under Central Excise as provision for same was absent.

Case Reference

151 taxmann.com 83 (Jammu & Kashmir and Ladakh) Order Dated - 26-05-2023



Facts of the Case:

Revenue:

The Revenue responded that the GST Department's lack of adequate funds was the cause of the delay in granting the refund. Furthermore, the benefit envisioned by the scheme is not a right because it is a concession or incentive offered by the government for the benefit of eligible industries.

Petitioner:

The petitioner claimed interest in the delay in paying out GST refunds under the Budgetary Support Scheme to businesses eligible for the area-based Central Excise exemption.

Summary:

The petitioner, M/s Jindal Drugs Private Limited (Cocoa Division), was registered with the Central Excise Department and qualified for notifications of area-based exemptions. However, after the introduction of the GST, the petitioner enrolled for the GST Regime without these exemptions. To help qualified taxpayers, the government introduced the Budgetary Support Scheme. However, a refund was postponed owing to inadequate funds, and the petitioner sought interest on the late payment. The High Court ruled that the benefit under the plan could not be claimed as a matter of right since the funds were not suitable for paying claims and the money was not withheld

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arbitrarily or unlawfully. As a result, the petitioner lacks the eligibility to make an interest claim under Section 54 of the 2017 J&K GST Act and the CGST Act. The court examined the relevant provisions of the SEZ Act and the GGST Act and found that the Central Government had authorized the officers of the State GST authorities to conduct search, seizure, investigation, or inspection in SEZs through a notification. Therefore, the court concluded that the respondent authorities had the lawful authority to carry out the proceedings.

The court also noted that accepting the petitioners' arguments would undermine the purpose of the IGST Act and create inconsistencies between the SEZ Act and the GST Act. Additionally, the Development Commissioner of the SEZ was duly informed before the search and seizure proceedings took place. As a result, the court rejected the petitioners' claims as unworthy of acceptance.

Notes to News & Updates:

Please note that Facts of the Case and Queries are as summarized by us based on our reading of case law and our interpretation based on law prevailing as on the judgement date. No assurance is being given on the correctness of the facts, and our opinion / analysis is given solely based on facts provided herein above.

Please note that this news and update is prepared by author for spreading knowledge, and the view is a matter of interpretation, and law is subject to various interpretations. The application of law and impact can vary widely based on the specific facts and interpretation of statute. Our views expressed above is based on facts and assumptions indicated above. No assurance is given that the authorities and/or Courts will concur with our views. We do not accept any liability, for any loss or damage caused as a result of any action taken on the above opinion expressed by us.

We hope you will find the above in order and we shall be too glad to provide any other assistance as may be required. In case you are looking specific expert help in relation to matters connected to this update or otherwise, please feel free to write to us on vaibhavjain@mehragoelco.com; mg@mehragoelco.com

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