

TAX INFO

Dated 15/12/2022

Latest update on GST Law: **Non-speaking refund rejection order is not justified** as given in judgement by **Telangana High Court**.

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Name of Petitioner	Aref Abdul Sattar Textiles Pvt. Ltd.
Name of Respondent	Deputy Commissioner State Tax
Court	Telangana High Court
Date of Judgement	11.10.2022
Appeal No.	Writ Petition No.19179 of 2022

Brief Facts of the Case Law:

Petitioner is engaged in the business of textiles and sale of readymade garments. Petitioner filed refund application for the period from July, 2017 to March, 2018 dated 14.01.2022 before claiming refund of Rs.88,89,113/-.

The refund application was made on the ground that there was excess payment of GST by the petitioner for the aforesaid period. A SCN dated 09.03.2022 was issued by Department stating that the refund application was barred by limitation as the petitioner ought to have claimed the refund within two years from the relevant date i.e., from the date of excess payment made in terms of Section 54 of the GST Act, 2017. Therefore, the Department proposed to reject the claim of refund. Petitioner was called upon to file objection, if any, with documentary evidence.

Petitioner submitted a detailed objection before Department on 10.03.2022 wherein petitioner specifically pointed out that the refund application was within time and could not be construed to be beyond limitation.

Thereafter, Department passed the impugned order dated 16.03.2022 rejecting the claim of refund made by the petitioner. Insofar reasons for the refund amount being inadmissible, it was mentioned in the impugned order as "delay in refund application".

Findings and Decision of the Court:

Ongoing through the impugned order, the same is not at all a speaking order. No reasons have been assigned for rejecting the refund application of the petitioner. Department did not advert to the objections filed by the petitioner on 10.03.2022.

That being the position, the impugned order dated 16.03.2022 was set aside and the matter was remanded back to Department to pass a fresh order on the refund application of the petitioner dated 14.01.2022 after giving reasonable opportunity of hearing to the petitioner, including personal hearing.

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