

TAX INFO

Dated 18/10/2021

Latest update on GST Law: Information regarding **SEZ entitled to refund under GST** as per **Judgement by Madras High Court.**

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SEZ entitled to refund under GST

Name of Petitioner	Platinum Holdings Pvt. Ltd.
Name of Respondent	Additional Commissioner
Court	Madras High Court
Date of Judgement	11/08/2021
Appeal No.	W.P.No.13284 of 2020

Facts of the Case:

The petitioner is a Special Economic Zone (SEZ) and has affected purchases from several suppliers/vendors for the development of the SEZ. Such supplies were affected to the petitioner, under invoices that included components of SGST, CGST and IGST though such supplies are zero-rated as the recipient is a SEZ, an entity not liable to tax in regard to the supplies made to it for development or export. Despite that petitioner not being liable to the payment of taxes, the invoices have been settled in full and tax has been paid on all the zero rated supplies. SEZ filed applications for refund of the taxes erroneously remitted by it on various dates to its suppliers. A show cause notice was issued where the locus of the Petitioner to claim the refund was questioned on ground that as per Section 54 of the CGST Act read with Rule 89 of CGST Rules, **only a supplier of services would be entitled to claim refund and not the SEZ itself.**

Contention of Petitioner:

The Petitioner contended that it had committed an error by remitting the taxes on the supplies made to it as the supplies being made to it were zero rated supplies exempt from tax. It was further contended that the reference in Section 54 of the CGST Act to 'any person' and would include the SEZ as well and accordingly, it shall be entitled to claim the refund of erroneously remitted tax. There is no restriction placed on who might claim refund of tax.

Decision of the Court:

It was held that the statutory scheme for refund under the CGST Act and State GST Acts permits any entity to seek a refund of taxes, including an SEZ. It was observed that the provisions of Section 54 of the CGST Act, providing for a refund, apply to any person who claims such refund and who makes an application for the grant of the same.

Thus, it was held that in the present case, the Petitioner shall fall within the meaning of 'any person' as enumerated under Section 54 of the CGST Act and accordingly, shall be eligible to seek refund of the taxes paid by it.

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