

TAX INFO

Dated 26/10/2021

Latest update on GST Law: Information regarding **Refund in case of Zero Rated Supply cannot be delayed because data is not transmitted from GSTN to ICEGATE** as given in **Judgement by Bombay High Court.**

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Name of Petitioner	SRC Chemicals Private Limited
Name of Respondent	Central Board of Indirect Taxes and Customs
Court	Bombay High Court
Date of Judgement	12/10/2021
Appeal No.	Writ Petition No.5160 Of 2021

Facts of the Case:

The Petitioner exported certain goods on 28/06/2017 from Nhava sheva port at Navi Mumbai, and all the formalities pertaining to printing of shipping bill etc. were undertaken by the Port. As per the practice prevalent at the said Port, the shipping bill would get generated and printed at the said port based on documents submitted by the exporter. Since the indirect tax regime was set to undergo a complete change and since the said Port was also in the process of adopting new system for transition to GST regime, the shipping bill which should have got printed on 28/06/2017 got printed on 01/07/2017. Since GST was applicable with effect from 01/07/2017 and leviable on the export of goods, the shipping bill got printed on 01/07/2017 with petitioner's GST Number and levy of IGST. Supplies of goods and services for export have been categorized as "Zero Rated Supply" and Petitioner chose to pay the amount of Rs.22,92,587/- being the IGST payment is reflected in the IGST returns of petitioner. **As per Circular No.26/2017-Customs dated 01/07/2017, Petitioner was not required to file any separate application for refund of IGST paid since Shipping bill had all details including IGST, invoice details and Shipping Bill details furnished in GST return was to be deemed to be an application for refund itself.** As petitioner did not receive the refund of IGST of Rs.22,92,587/- till 16/09/2018, he approached the customs office to check the status of its refund. He was informed that unless export data was transmitted from GSTN (GST Network) to ICEGATE, the Customs office would not be in position to process the refund claim.

Contention of Petitioner:

On 05/03/2019, the petitioner filed an application for refund {Portal temporarily allows to file RFD-01A} in Form GST RFD-01A which was rejected. An appeal before the Commissioner of Central Tax was rejected on the ground that the jurisdiction of refund of the IGST paid on exported goods was with the Customs. Petitioner filed Writ before High Court on 28/04/2021. Petitioner had no control or role to play in the transmission of data from GSTN to ICEGATE. He pointed out at the inability of the office of the Commissioner to process the IGST refund claimed by him "because data is not transmitted from GSTN to ICEGATE". He wanted refund IGST of Rs.22,92,587 paid by him in respect of export of goods on 28/06/2017 with shipping documents dated 01/07/2017.

Decision of the Court:

Petitioner is entitled to refund and is made to run from pillar to post only because data of IGST refund is not transmitted from GSTN to ICEGATE. That cannot be petitioner's problem and it was the responsibility of Department to grant Refunds against the Exports Transaction. The court directed that the refund of Rs.22,92,587/- is paid to petitioner within 4 weeks together with interest thereon @ 9% p.a. from the filing date of the petition i.e., 28/4/2021 along with Cost Rs. 25,000/-

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