

Refund of IGST cannot be withheld on mere suspicion that Assessee has availed duty drawback

The Hon'ble Bombay High Court in *Sunlight Cable Industries v. Commissioner of Customs [Writ Petition No.284 of 2021 dated June 27, 2023]* quashed the order of the Revenue of not refunding Integrated Goods and Services Tax ("IGST") pertaining to export sales and held that the order of Revenue does not have any factual backing that assessee has tried to avail double benefit by availing duty drawback and IGST refund.

Facts:

M/s. Sunlight Cable Industries ("**the Petitioner**") exported insulated cables and has inadvertently made error in filling GSTR-1 for the month of August, 2017 and entered the incorrect invoice no. and port code in respect of export transaction.

However, on realising the mistake the Petitioner filed an amended return for the month of January 2018 in GSTR-1 amending particulars namely invoice number and the Port Code with respect to the said tax invoice.

Thereafter, on January 09, 2019 the Petitioner submitted an annexure in the prescribed format establishing concordance between the tax invoice and shipping bill to the Revenue Department ("**the Respondent**").

After such compliances the Petitioner on March 15, 2019 made an application to the Respondent requesting to release the refund of IGST amount.

Despite all such compliances, there was no response from the Respondent. The Petitioner on such backdrop lodged a grievance in regard to the IGST refund with the Central Public Grievance Redress and Monitoring System ("**CPGRAMS**") on September 26, 2020.

Thereafter, on October 07, 2020 the Petitioner received an e-mail from CPGRAMS that the grievance has been disposed on the ground that the Petitioner had availed higher duty drawback on its exports under the export invoice and corresponding shipping bill.

Aggrieved by which the Petitioner submitted a fresh grievance on October 09, 2020 justifying and clarifying that it had not realized any higher amount of drawback against the said Shipping Bill. However, by e-mail of the CPGRAMS dated November 05, 2020 the Petitioner again received a communication that the grievance of the Petitioner has been closed.

In light of the closure of the refund application without any valid reason, the Petitioner filed a writ before the Hon'ble Bombay High Court praying to quash and set aside the decision to close case of the Petitioner and also issue instruction to the Respondent to grant IGST refund.

Issue:

Whether the Revenue Department can withheld the refund of IGST on the mere suspicion that assessee has tries to avail duty drawback and IGST refund both?

Held:

The Hon'ble Bombay High Court in ***Writ Petition No.284 of 2021*** held as under:

- Noted that, there was no evidence presented by the Revenue Department to establish that the Petitioner had availed a double benefit.
- Allowed, refund of IGST paid on exported goods.
- Directed the Respondent to refund the IGST paid by the Petitioner in respect of the goods exported under shipping bills with simple interest at 7% p.a. with effect from February 22, 2018.

(Author can be reached at info@a2ztaxcorp.com)

DISCLAIMER: The views expressed are strictly of the author and A2Z Taxcorp LLP. The contents of this article are solely for informational purpose and for the reader's personal non-commercial use. It does not constitute professional advice or recommendation of firm. Neither the author nor firm and its affiliates accepts any liabilities for any loss or damage of any kind arising out of any information in this article nor for any actions taken in reliance thereon. Further, no portion of our article or newsletter should be used for any purpose(s) unless authorized in writing and we reserve a legal right for any infringement on usage of our article or newsletter without prior permission.