

GST: Where assessee claimed for refund of additional IGST paid and Competent Authority was not in a position to refund same, as there was no provision for processing refund manually, said Authority was to be directed to refund additional IGST in terms of Circular No. 40/2018-Customs F. No. 450/119/2017-Cus-IV, dated 24-10-2018

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[2020] 113 taxmann.com 509 (Madras)

HIGH COURT OF MADRAS

Vedanta Ltd.

v.

Commissioner of Customs (Drawback)*

M. GOVINDARAJ, J.
W.P. (MD) NO. 6209 OF 2019
OCTOBER 31, 2019

Section [54](#) of the Central Goods and Services Tax Act, 2017/Section [54](#) of the Tamil Nadu Goods and Services Tax Act, 2017 - Refund - Tax - Assessee claimed for refund of additional IGST paid to tune of Rs. 2.2 crores - Competent Authority was not in a position to refund same, as entire process was system managed and there was no provision for processing refund manually - Assessee filed writ petition seeking relief in this regard - Whether considering judgment of Gujarat High Court rendered in case of Amit Cotton Industries v. Pr. Commissioner of Customs [\[2019\] 107 taxmann.com 167/75 GST 33](#) (wherein a similar issue had been decided) as well as [Circular No. 40/2018-Customs F. No. 450/119/2017-Cus-IV, dated 24-10-2018](#), Competent Authority was to be directed to refund additional IGST paid by assessee to tune of Rs. 2.2 crores - Held, yes [Para 5] [In favour of assessee]

Circulars and Notifications: [Circular No. 40/2018-Customs F. No. 450/119/2017-Cus-IV, dated 24-10-2018](#) and [Circular No. 5/2018-Customs, dated 23-2-2018](#)

(NR)

CASE REVIEW

Amit Cotton Industries v. Pr. Commissioner of Customs [\[2019\] 107 taxmann.com 167/75 GST 33 \(Guj.\)](#) (para 4) *followed*.

CASES REFERRED TO

Amit Cotton Industries v. Pr. Commissioner of Customs [\[2019\] 107 taxmann.com 167/75 GST 33 \(Guj.\)](#) (para 3).

A.R.L. Sunderasan and **Y. Prakash** *for the Petitioner*. **B. Vijayakarhikeyan** *for the Respondent*.

ORDER

1. The petitioner exports goods on payment of Integrated Goods and Service Tax and he claims refund

of such tax.

2. The petitioner Company exported goods vide 512 invoices through 71 shipping bills and duly paid the IGST of Rs. 94,42,39,026 in terms of the Section 16 (3) of the IGST Act. While so, due to variation of rates in London Metal Exchange, the prices were revised in respect of 442 invoices covered by 61 shipping bills. The petitioner Company has paid tax on the differential export value to the tune of Rs. 2,02,94,956. Thereafter, the petitioner claimed refund of Rs. 94,42,39,026/- along with the additional tax paid due to variation of rates in London Metal Exchange to the tune of Rs. 2,02,94,956/-. The respondents have refunded Rs. 94,42,39,026/-. But they are not in a position to refund the balance amount of Rs. 2,02,94,956/- as the entire process is system managed. There is no provision for processing the refund manually. Therefore, after deliberation they have taken a stand to find out a way for resolving such kinds of disputes. In fact, the fourth respondent issued Circular No.40 of 2018-Customs F.No.450/119/2017-Cus-IV, dated 24.10.2018, wherein, it is observed as under:—

"4. CBIC has been receiving representations where the refund scroll has been generated for a much lesser IGST amount than what has actually been paid against the exported goods. Broadly, this has happened due to:

- (a) Error made by the exported/CHA in declaring the IGST paid amount in SB or
- (b) Cases where Compensation Cess paid amount was not entered by the exporter in the SB along with the IGST paid amount of the same details were not transmitted by GSTN, and the scroll consequently got generated only for the IGST amount or,
- (C) Typographical mistake by the customs office while sanctioning the refund through officer interface.

5. In a bid to provide relief to exporters in respect of categories indicated at Para 4 above, Directorate of Systems has now provided a facility in ICES for the processing and sanctioning of the eligible differential IGST refund. The facility would be officer interface based and is similar to the procedure for processing certain SB005 refund claims refer Circular No.05/2018-customs dated 23.02.2018. This facility would be available only for cases where Shipping Bills have been filed till 15.11.2018. However, exporters need to be cautious while filing details in Shipping Bill as a similar facility may not be available in future for the same mistake for referred shipping bill. Also, Customs Officers while processing claims using Officer interface should exercise due diligence so that mistakes are not repeated again.

6. In order to claim the differential amount, the exporter is required to submit a duly filled and signed Revised Refund Request (RRR) annexed to this circular to the designated AC/DC. A scanned copy of the RRR may also be mailed to dedicated email address of Customs locations from where exports took place. The designated/concerned AC/DC will then proceed to sanction the revised amount after due verification through the option provided in ICES, a detailed advisory on which will be communicated by DG Systems to all the System Managers shortly. Once the revised amount is approved by the designated AC/DC in the system, a fresh scroll will be available for generation for the differential amount only."

3. In the peculiar circumstances, the respondents have issued the above circular to resolve the issue. Now the present case on hand is also similar to that of the problem which was faced by the respondents in similar circumstances. When there is no provision in the electronically managed system, they should have visualised the situation prior to its introduction to do away with these anomalies and provided solution to the same. When the issue of refund like the present one was dealt with by the Hon'ble High Court of Gujarat at Ahmedabad in *Amit Cotton Industries v. Pr. Commissioner of Customs* [\[2019\] 107 taxmann.com 167/75 GST 33 \(Guj.\)](https://taxmann.com/167/75/GST/33/Guj/), the High Court has given a direction to the respondents to refund

the IGST paid in regard to the goods exported i.e., 'Zero rated Supplies', with 7% Simple Interest in view of circular dated 09.10.2018 and Rule 96 of Central Goods and Services Tax Rules, 2017.

4. As stated supra, when the process is completely system managed, the respondents are supposed to visualise the complications and provide solutions to do away with the anomalies. The very object of encouraging exporters and augmenting the foreign currency will be defeated by such hiccups. Therefore, considering the judgment of Hon'ble High Court of Gujarat in R/Special Civil Application No.20126 of 2018, dated 27.06.2019 as well as the circular issued by the fourth respondent dated 24.10.2018, a direction is given to the respondents to refund the additional IGST paid by the petitioner to the tune of Rs. 2,02,94,956/-within a period of four weeks from the date of receipt of a copy of this order.

5. The Writ Petition stands disposed of with the above directions. No costs.

s.k. jain

*In favour of assessee.