



\$~59

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 08.05.2024

+ **W.P.(C) 6517/2024 & CM. APPLS. 27222/2024**

SMARTADMEDIA THROUGH ITS SOLE PROPRIETORE
NAVDEEP SINGH SAHNI Petitioner

Versus

COMMISSIONER OF DELHI GOODS AND SERVICE TAX &
ANR. Respondents

Advocates who appeared in this case:

For the Petitioner: Ms. Purti Gupta and Ms. Henna George, Advocates.
For the Respondents: Mr. Rajeev Aggarwal, Additional Standing Counsel with
Ms. Samridhi Vats and Ms. Shagufta Badhwar,
Advocates.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner seeks a direction to the respondents to issue the refund in the sum of Rs.9,69,017/- besides interest due thereon in terms of Section 54 of the Central Goods and Service Tax Act, 2017. Petitioner further seeks a direction that guideline be issued to proper officer to process all pending applications and issue refund within 60 days and in case of delay, interest to be paid.



2. Issue notice. Notice is accepted by learned counsel for respondent. With the consent of parties, the petition is taken up for final disposal.

3. Insofar as directions to the proper officer are concerned, we may refer to Section 54, sub section (7), which mandates that proper officer shall pass an order within 60 days from the date of the receipt of the application complete in all respects.

4. Reference may be also had to Circular No.125/44/2019-GST issued by the Central Board of Indirect Taxes and Customs (hereinafter referred to as the Board), paragraph 4 of which stipulates as under:-

“4. The following modalities shall be followed for all refund applications filed in FORM GST RFD-01 on the common portal with effect from 26.09.2019:

a. FORM GST RFD-01 shall be filled on the common portal by an applicant seeking refund under any of the categories mentioned above. This shall entail filing of statements/declarations/undertakings which are part of FORM GST RFD-01 itself, and also uploading of other documents/invoices which shall be required to be provided by the applicant for processing of the refund claim. A comprehensive list of such documents is provided at Annexure-A and it is clarified that no other document needs to be provided by the applicant at the stage of filing of the refund application. The facility of uploading these other documents/invoices shall be available on the common portal where four documents, each of maximum 5MB, may be uploaded along with the refund application. Neither the



refund application in FORM GST RFD-01 nor any of the supporting documents shall be required to be physically submitted to the office of the jurisdictional proper officer.

b. The Application Reference Number (ARN) will be generated only after the applicant has completed the process of filing the refund application in FORM GST RFD-01, and has completed uploading of all the supporting documents/undertaking/statements/invoices and, where required, the amount has been debited from the electronic credit/cash ledger.

c. As soon as the ARN is generated, the refund application along with all the supporting documents shall be transferred electronically to the jurisdictional proper officer who shall be able to view it on the system. The application shall be deemed to have been filed under sub-rule (2) of rule 90 of the CGST Rules on the date of generation of the said ARN and the time limit of 15 days to issue an acknowledgement or a deficiency memo, as the case may be, shall be counted from the said date. This will obviate the need for an applicant to visit the jurisdictional tax office for the submission of the refund application and/or any of the supporting documents. Accordingly, the acknowledgement for the complete application (FORM GST RFD-02) or deficiency memo (FORM GST RFD-03), as the case may be, would be issued electronically by the jurisdictional tax officer based on the documents so received from the common portal.

d. If a refund application is electronically transmitted to the wrong jurisdictional officer, he/she shall reassign it to the correct jurisdictional officer electronically as soon as possible, but not later than three working days, from the date of generation of the ARN. Deficiency memos shall not be issued in such cases merely on the ground that the applications were received electronically in the wrong jurisdiction.

e. It may be noted that the facility to reassign such refund applications is already available with the Commissioner or the officer(s) authorized by him.”



5. Reference may also be had to Clause 34 of the said Circular, which reads:-

“34. Section 56 of the CGST Act clearly states that if any tax ordered to be refunded is not refunded within 60 days of the date of receipt of application, interest at the rate of 6 per cent (notified vide notification No. 13/2017-Central Tax dated 28.06.2017) on the refund amount starting from the date immediately after the expiry of sixty days from the date of receipt of application (ARN) till the date of refund of such tax shall have to be paid to the applicant. It may be noted that any tax shall be considered to have been refunded only when the amount has been credited to the bank account of the applicant. Therefore, interest will be calculated starting from the date immediately after the expiry of sixty days from the date of receipt of the application till the date on which the amount is credited to the bank account of the applicant. Accordingly, all tax authorities are advised to issue the final sanction order in FORM GST RFD-06 and the payment order in FORM GST RFD-05 within 45 days of the date of generation of ARN, so that the disbursement is completed within 60 days.”

6. In view of the Board already having issued the Circular and keeping in view the provisions of Section 54 (7) of the Act, the proper officers have to comply with the said provisions and accordingly, no further directions are called for in the said matter.

7. Insofar as the case of the petitioner is concerned, petitioner had filed refund claim on 22.01.2024 and as per the petitioner, till date no deficiency memo has been issued to the petitioner. Since the statutory period of 60 days has already elapsed, the proper officer is directed to expedite the processing of the application for refund and dispose of



the same within a period of two weeks in accordance with law. The proper officer shall also take into account the Circular of the Board referred to above as also the provisions of the Act, while passing the order.

8. Petition is disposed of in the above terms. It would be open to the petitioner to avail of such further remedies as available in law if aggrieved by any order passed by the proper office on the application of refund and the claim of interest.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

MAY 08, 2024/NA