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WP-16440-2022

IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

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HON'BLE SHRI JUSTICE PRADEEP MITTAL

ON THE 12th OF FEBRUARY, 2026WRIT PETITION No. 16440 of 2022*M/S KJV ALLOYS CONDUCTORS PVT. LTD.**Versus**UNION OF INDIA AND OTHERS*

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Appearance:

Shri Mukesh Agrawal - Advocate for the petitioner.

Shri Gautam Prasad - Advocate for the respondents.

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ORDER

Per. Justice Vivek Rusia

The petitioner has filed the present petition under Article 226/227 of the Constitution of India against the order dated 10.02.2020 passed by the Respondent No.3 - Commissioner, Central GST Custom & Central Excise Office, Jabalpur and order dated 21.04.2021 passed by the Respondent No.4 - Joint Commissioner (Appeals) Central GST, Bhopal (M.P.), whereby interest amounting to Rs.54,29,792/- was confirmed on reversal of input tax credit and refund of Rs.32,00,000/- available in the electronic cash ledger was adjusted towards such interest liability.

Facts of the case, in short, are as under:-

2. The petitioner is a private limited company engaged in the



business of manufacturing transmission line equipment such as aluminium conductors, cables and wire rods, and is registered under the Goods and Services Tax regime.

3. Upon introduction of the Goods and Services Tax with effect from 01.07.2017, the petitioner became entitled to carry forward eligible CENVAT credit under Section 140(1) of the Central Goods and Services Tax Act, 2017. Accordingly, the petitioner filed Form TRAN-1 on 10.07.2017 claiming a transitional credit amounting to Rs. 1,31,07,632/-. It is the case of the petitioner that due to technical glitches in the GST portal during the initial phase of implementation, the said transitional credit did not reflect in its Electronic Credit Ledger (ECL). Apprehending loss of substantial credit, the petitioner reflected the said amount as Input Tax Credit in its GSTR-3B return for the month of July 2017.

4. Subsequently, the petitioner realised that they had taken wrong excess credit of transitional credit amounting to Rs.3,48,523.00 and the petitioner was entitled to claim only Rs.1,28,21,441/-, accordingly, the petitioner rectified the mistake and reversed by submitting Trans form on 26.12.2017. The petitioner asserts that the credit so reflected in GSTR-3B was never utilised for discharge of its outward tax liability and remained unutilized in the electronic credit ledger. The petitioner made attempts to reverse the wrongly reflected credit but encountered technical difficulties in doing so through the



portal. Ultimately, in April 2019, the petitioner reversed the entire amount of Rs.1,31,07,632/- through available balance in the electronic credit ledger. Thereafter, the departmental authorities issued notices demanding an interest amounting to Rs.54,29,792/- under Section 50(3) read with Section 42(10) of the CGST Act, 2017 on the ground that the petitioner had wrongly availed input tax credit.

5. During the pendency of the aforesaid dispute, the petitioner filed an application dated 12.11.2019 seeking a refund of Rs.32,00,000/- lying in its electronic cash ledger. However, the Assistant Commissioner, CGST & Central Excise Division, Chhindwara, adjusted the said refund against the alleged interest liability and intimated the same to the petitioner vide order dated 10.02.2020.

6. Being aggrieved by the order dated 10.02.2020 passed by the Assistant Commissioner, CGST & Central Excise Division, Chhindwara, the petitioner preferred an appeal before the Joint Commissioner (Appeals), CGST, Bhopal, which came to be dismissed vide order dated 21.04.2021 confirming levy of interest and adjustment of refund. Hence, being aggrieved by both the aforesaid orders dated 10.02.2020 and 21.04.2021, the petitioner approached this Court by way of the present writ petition.

Submissions made by the learned counsel for the petitioner.

7. Learned counsel appearing for the petitioner submits that the impugned order dated 10.02.2020, passed by the Assistant



Commissioner, CGST & Central Excise Division, Chhindwara, and the order dated 21.04.2021, passed by the Joint Commissioner (Appeals), CGST, Bhopal, are wholly illegal, arbitrary and contrary to the provisions of the Central Goods and Services Tax Act, 2017. He also submits that though the petitioner reflected transitional credit of Rs.1,31,07,632/- in GSTR-3B due to non-reflection of the same in the electronic credit ledger on account of technical glitches in the GST portal, the said credit was never utilised for discharge of any outward tax liability. The petitioner ultimately reversed the entire amount through available balance in the electronic credit ledger, and no part of the said reversal was made by debiting the electronic cash ledger. Therefore, it is submitted that in the absence of utilisation of input tax credit, the question of levy of interest does not arise.

8. Further, learned counsel for the petitioner also contends that by virtue of the amendment to Section 50(3) of the CGST Act, 2017 brought into force retrospectively with effect from 01.07.2017, interest is leviable only when input tax credit is wrongly availed and utilised. The legislative intent, as clarified through subsequent amendment, makes it abundantly clear that mere availment without utilisation does not attract interest liability. Since in the present case, the credit was never utilised and stood reversed, the essential condition for the levy of interest is absent. The learned counsel submits that the authorities have failed to appreciate the retrospective nature of the amendment and have



proceeded on an erroneous interpretation of the unamended provision.

9. Learned counsel further submits that the impugned action of adjusting the petitioner's legitimate refund of ₹32,00,000/- towards alleged interest liability without proper adjudication and without establishing actual utilisation of credit is in violation of principles of natural justice. It is argued that the petitioner had placed on record statutory returns, including GSTR-9 and GSTR-9C, to demonstrate that the disputed credit was not utilised; however, the Appellate Authority failed to consider the same. The petitioner's conduct throughout has been *bona fide*, and the initial reflection of credit in GSTR-3B was a procedural error arising during the nascent stage of GST implementation without any fraudulent intent or revenue loss. In such circumstances, the levy of interest and adjustment of refund are unsustainable in law and liable to be quashed.

Submissions made by the learned counsel for the respondents.

10. The Learned Counsel for the respondents submits that the present writ petition is devoid of merit and deserves dismissal. The petitioner admittedly availed transitional credit twice; once through TRAN-1 and another through GSTR-3B for the month of July 2017 on 28.08.2017, resulting in wrongful availment of input tax credit amounting to Rs. 1,31,07,632/-. Although discrepancies were pointed out by the department in September 2017, the petitioner reversed the substantial inadmissible input tax credit only on 20.05.2019 i.e.



approximately after 630 days. During this period, the electronic credit ledger did not maintain a balance equivalent to the wrongly availed amount, clearly establishing utilisation. Once input tax credit is wrongly availed and utilised, interest liability under Sections 50(3) and 42(10) of the CGST Act, 2017 automatically arises. The liability is statutory and compensatory in nature. The amendment to Section 50(3) does not assist the petitioner, as utilisation is clearly established from the record.

11. It is further submitted that despite repeated communications, the petitioner failed to pay the statutory interest amounting to Rs.54,29,792/-. When the petitioner filed a refund claim of Rs. 32,00,000/- from the electronic cash ledger, the same was lawfully adjusted against the outstanding interest liability under Section 79 of the CGST Act, 2017. The Joint Commissioner (Appeals) has upheld the action of the department by a reasoned order. There is no jurisdictional error, violation of natural justice, or illegality warranting interference under Article 226.

12. Learned counsel for the respondent submits that the petitioner seeks to avoid a statutory consequence arising from its own wrongful conduct. The action of the Respondents is strictly in accordance with the law and safeguards public revenue. It is therefore respectfully prayed that the writ petition be dismissed.

Appreciation & Conclusion.

13. In para 5.4 of this Writ Petition, the petitioner has admitted



that it has wrongly received excess credit of transitional credit amount Rs. 3,48,523/-. The petitioner was only entitled to claim Rs.1,28,21,441/-, thereafter, the petitioner tried to reverse the amount of TRANS- 1 twice, but failed to do so. In September 2018, the GSTR-3 B return was submitted in order to reverse the amount of TRANS-1, but the same was not reflected in the GST portal. The petitioner finally reversed the Input Tax Credit of Rs.1,31,07,632/- in monthly return April GSTR- 3B, therefore, the petitioner wrongly availed the excess credit of Rs.1,31,07,632/- from electronic credit ledger from 28.08.2017 to 20.05.2019 i.e. total 630 days, therefore, a show cause notice was issued to pay the interest @ of 24% per annum under Section 42(10) and Section 50(3) of the GST Act, 2017 amounting to Rs.54,29,792/-.

14. All the grounds raised by the petitioner have been duly considered by the Assistant Commissioner, CGST & Central Excise Division, Chhindwara vide order dated 10.02.2020. Thereafter, the Appellate Authority vide Order-in-Appeal dated 21.04.2021 had considered all the three objections of the petitioner; firstly, that the interest cannot be recovered under GST Act, 2017 without issuing SCN; secondly, interest on delayed payment of tax to be calculated on the net tax payable only and; thirdly, mere reflection of transitional credit could not be treated as availment or utilisation unless such availment or utilisation of credit reduce tax liability. All three grounds have been met by quoting appropriate sections of the GST Act, 2017. Para 8, 9, 10, 11



and 12 of the Order -in- Appeal dated 21.04.2021 are reproduced below for ready reference and convenience:-

"8. In the instant appeal, the appellant had contested the impugned order on following grounds :

i. Interest had been recovered without issuing any SCN.

ii. Interest on delayed payment of tax to be calculated on net tax payable only.

iii. Mere reflection of transitional credit could not be treated as availment or utilisation unless such availment or utilisation of credit reduce tax liability.

"9. Upon perusal of the available facts on record, I observe that the appellant himself, as per self-assessment, had reversed the ITC amounting to Rs. 13107632 on 20.05.2019 which was claimed by them on 28.08.2017. Thus, it is very clear that the appellant had accepted the fact that they had wrongly taken/claimed said credit.

Now, section 50(3) of the CGST Act, 2017 reads as:

"(3) A taxable person who makes an undue or excess claim of input tax credit under sub-section (10) of section 42 or undue or excess reduction in output tax liability under sub-section (10) of section 43, shall pay interest on such undue or excess claim or on such undue or excess reduction, as the case may be, at such rate not exceeding twenty-four per cent., as may be notified by the Government on the



recommendations of the Council.”

In view of the same, CGST Act, 2017 clearly provides that the interest would be payable on excess claim of the ITC. Thus, the applicability of interest on ITC as per the said section arises on the claim of ITC. And, in the instant case, the appellant had claimed the credit under dispute on 28.08.2017.

10. Further, the appellant's contention that the interest on delayed payment of tax to be calculated on net tax payable is not applicable to the instant case as the instant case pertains to the excess claim of ITC in their electronic credit ledger and not related to the payment of tax per se.

11. Now, I would take up the issue whether interest can be recovered without issuance of SCN or otherwise.

In this respect, section 79(12) of the CGST Act, 2017 reads as:

“(12) Notwithstanding anything contained in section 73 or section 74, where any amount of self-assessed tax in accordance with a return furnished under section 39 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 79.”

Further, section 79 of the CGST Act, 2017 reads as:

“(1) Where any amount payable by a person to the Government under any of the provisions of this Act or the rules made thereunder is not paid, the



proper officer shall proceed to recover the amount by one or more of the following modes, namely:—

a. the proper officer may deduct or may require any other specified officer to deduct the amount so payable from any money owing to such person which may be under the control of the proper officer or such other specified officer;

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(3) Where any amount of tax, interest or penalty is payable by a person to the Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of State tax or Union territory tax, during the course of recovery of said tax arrears, may recover the amount from the said person as if it were an arrear of State tax or Union territory tax and credit the amount so recovered to the account of the Government."

It is a matter of fact that the ITC under dispute is self-assessed and accepted by the appellant. Thus, if there is reversal of ITC by the appellant on the basis of self- assessment, on the same premise, automatically interest comes into the picture. In view of the above, interest on the self-assessed liability is a confirmed demand and no SCN is needed to be issued for the recovery of the confirmed demand ie. arrear.

Thus, in view of the above, I find that the interest amount arising on the self- assessed reversal of ITC is an arrear and recoverable from



the appellant without issuance of separate SCN for the same. Accordingly, recovery of arrear by the adjudicating authority vide impugned order is well within the purview of provisions as mandated under the CGST Act, 2017.

12. Further, the authorized representative of the appellant has submitted during the personal hearing that the appellant has sufficient balance in credit ledger and thus, they are not required to discharge any liability in cash. In this regard, I place reference to section 49 of the CGST Act, 2017 as:

"49. (1) Every deposit made towards tax, interest, penalty, fee or any other amount.....

.....

(3) The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.

(4) The amount available in the electronic credit ledger may be used for making any payment towards output tax under this Act or under the Integrated Goods and Services Tax Act in such manner and subject to such conditions and within such time as may be prescribed."

Thus, in view of the above, it is clear that liability towards output tax only would be



discharged through the electronic credit ledger. Whereas, any liability towards tax, interest, penalty or any other amount would be discharged from the electronic cash ledger. Thus, the liability towards interest can only be discharged from the electronic cash ledger and therefore the said Submission made by the authorized representative on behalf of the appellant does not merit consideration."

15. Learned counsel for the petitioner has placed reliance on a judgment passed by the Division Bench of the High Court of Bombay in the case of "*Soorajmull Bajinath (P.) Ltd. Vs. Union of India [(2024) 169 taxmann.com 120 (Bombay)]*". In the said case, the recovery of interest was quashed on a consent given by the department. The interest is payable only when the balance in the electronic credit ledger falls below the wrongly availed input tax credit amount. No such material has been produced by the petitioner to justify that the balance amount in the electronic credit ledger was below the amount of Rs. 1,31,07,632/-. Apart from that, the petitioner is admitting that the aforesaid amount was wrongly availed as input tax credit and retained for 630 days and finally returned. Therefore, the interest is mandatory under Section 50(3) read with Section 42(10) of the CGST Act, 2017.

16. No case for interference is made out to interfere with the order dated 10.02.2020 passed by the Respondent No.3 - Commissioner, Central GST, Custom & Central Excise Office, Jabalpur and the order dated 21.04.2021 passed by the Respondent No.4 - Joint Commissioner



(Appeals) Central GST, Bhopal (M.P.)

17. In view of the above, the present petition is **dismissed**.

(VIVEK RUSIA)
JUDGE

(PRADEEP MITTAL)
JUDGE

Shivani