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Judgment No.: 006
Dt.: 02-11-2023



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Judgment Deals With

Section/Rule	Section 54 of CGST Act, 2017
Authority	Bombay High Court
Case Name	Schlumberger Asia Services Limited VS The Union of India and ors.
Dated	20 th July, 2022

Brief Facts:

Petitioner is a company incorporated under the laws of Hongkong and is registered as a branch office in India engaged in the business of providing services in relation to mining, offshore exploration, drilling of crude petroleum & natural gas etc. Petitioner had filed claims for refund of all unutilized input tax credit for April, 2018 to March, 2019 (excluding May, 2018). The refund rejection order was passed. The appeal was preferred but appellate authority rejected petitioner's appeal on the ground that, it did not reflect zero rated turnover in the returns. Hence, the present petition.

Contention of Petitioner:

It was a clerical error and not suppression of sales turnover. It was not reflected in the monthly returns filed, but it got reflected in the annual returns filed on 24.03.2021. The appeal in which the impugned orders have been passed was filed on 14.03.2021 and in the appeal memo, petitioner had stated that he was yet to file its annual return for F.Y. 2018-19 and in the annual return petitioner shall report the zero rated supplies, which was not reported earlier due to clerical error. During the personal hearing that was granted to petitioner on 30.07.2021, copies of the annual returns were tendered, but the same has not been reflected in the impugned order.

Findings & Order:

Since the annual returns have been filed, the matter has to be remanded to appellate authority for de novo consideration.

Therefore, the impugned order dated 25.08.2021 was quashed and set aside. The matter was remanded for de novo consideration to appellate authority who shall dispose the appeal within 4 weeks of receiving copy of the annual returns filed. Before passing any final order if the order is going to be adverse to petitioner's interest, then personal hearing shall be granted. The order shall be reasoned order.

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