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By Nidhi, Advocate



Judgment No.: 063
Dt.: 05-02-2024



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Judgment Deals With

Section/Rule	Section 54
Authority	Calcutta High Court
Case Name	Mr. Sunil Kumar Poddar VS The Additional Commissioner(Appeal)
Dated	30 th January, 2024

Brief Facts:

The petitioner made zero rated supply of goods and sought refund of the unutilized accumulated Input Tax Credit. He filed Form GSTR-1 but failed to upload the shipping details. The refund application got rejected & the appeal also stood rejected vide order dated 23.03.2023.

Contention of the Department:

As per Circular No. 125/44/2019 dated 18.11.2019, in case of refund claim on account of export of goods without payment of tax, the shipping bill details shall be checked by the proper officer through ICEGATE SITE wherein the officer will be able to check details of EGM and shipping bill by keying in port name, shipping bill number and date. As the petitioner failed to upload the relevant details in Form GSTR 1, accordingly, the claim of the petitioner stood rejected. As law requires submission of the shipping details for obtaining refund, the petitioner was legally bound to supply the details of the shipping bills. On account of non-incorporating the details of the shipping bills in the GSTR-1 in the GSTN portal, the refund of the petitioner has been rightly rejected.

Findings & Decision of the Court:

In the present case, the petitioner has in his possession all the relevant shipping details but for the misconception of law the petitioner did not upload the shipping details at the time of claiming refund in Form GSTR-1. According to the provisions of law, the shipping details are required to be uploaded. After getting to know the mistake committed by him in not uploading the shipping details, the petitioner at one point of time tried to amend the GSTR-1 for the purpose of incorporating the shipping details, but the same was not permitted on GST portal. On one hand the petitioner is not being permitted to amend the GSTR-1 and on the other hand hardcopies of the shipping bills submitted by the petitioner at the time of preferring appeal is not being considered. The authority at the time of consideration of the appeal of the petitioner ought to have appreciated that the petitioner will not gain anything by holding back the shipping bills. The petitioner would lose a sum of nearly 5 crore rupees on account of not uploading the shipping bills in proper time. If a tax payer possesses the valid shipping bills, but for some reason may not have been able to upload the same in Form GSTR-1 at the time of claiming refund, the law should not be so rigid so as not to permit the claimant to rectify the mistake that has been committed inadvertently. There is nothing on record to show that the petitioner deliberately did not upload the required details. Apart from the fact that the petitioner did not upload the shipping details in GSTR-1, there is no reason for withholding or rejecting the claim for refund sought for by the petitioner. Thus, the Commissioner was directed to take into consideration the hardcopy of the shipping bills submitted by the petitioner for consideration of refund of the unutilized accumulated ITC on account of zero rated supply.

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