

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

MONDAY, THE 20TH DAY OF JANUARY 2020 / 30TH POUSHA, 1941

WP(C).No.1418 OF 2020(B)

PETITIONER:

P.R.SUBHAGAN
AGED 61 YEARS
PROPRIETOR, M/S PSV FIBERS, XVI/510 , POZHICKAL
HOUSE, THUMBOLY P.O.ALAPPUZHA-686 005.

BY ADVS.
SRI.P.S.SOMAN
SMT.T.RADHAMANY
SHRI.PRAKASH P.B.

RESPONDENTS:

- 1 THE UNION OF INDIA
REPRESENTED BY ITS SECRETARY, GOVERNMENT OF INDIA,
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE (CENTRAL
BOARD OF EXCISE AND CUSTOMS), NORTH BLOCK, NEW DELHI-
110001.
- 2 CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS,
GOVERNMENT OF INDIA, MINISTRY OF FINANCE, DEPARTMENT
OF REVENUE, (CENTRAL BOARD OF EXCISE AND CUSTOMS),
NORTH BLOCK, NEW DELHI-110 001.
- 3 THE CHIEF COMMISSIONER OF CUSTOMS,
OFFICE OF THE COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE,
WELLINGTON ISLAND, COCHIN, KERALA-682 009
- 4 THE DEPUTY COMMISSIONER OF CUSTOMS (REFUND AND
DRAWBACK) ,
OFFICE OF THE COMMISSIONER OF CUSTOMS, CUSTOMS HOUSE,
WELLINGTON ISLAND, COCHIN, KERALA-682 009
- 5 ASSISTANTCOMMISSIONER OF CUSTOMS (REFUND AND
DRAWBACK) ,
CUSTOMS HOUSE, WELLINGTON ISLAND, COCHIN, KERALA-682
009.

SRI.P.VIJAYAKUMAR, ASGI, SRI.THOMAS MATHEW
NELLIMOOTTIL, SC FOR R2 TO R5, SRI.SREELAL N.WARRIER,
SC

WP(C).No.1418 OF 2020(B)

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THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20.01.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ALEXANDER THOMAS, J

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W.P.(C). NO. 1418 OF 2020

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Dated this the 20th day of January 2020

J U D G M E N T

The case set up in this writ petition (civil) are as follows:

The petitioner would contend that he is a manufacturer of Polypropylene Matting and doing exports as well as domestic billing. The petitioner used to pay GST for the supplies made by them in accordance with law. Since the goods are exported out of India, the same are termed as 'Zero Rated Supply' in accordance with Section 16 of the IGST Act. According to the said provision, a registered person making 'Zero Rated Supply' has an option to claim refund in accordance with Section 16(3)(b) in a manner as to, he may supply goods or services or both, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied, in accordance with Section 54 of CGST Act, Exhibits-P3 series are the shipping bill, Commercial Invoice, Export Invoice, Export General Manifest and bill of lading. Immediately after the goods are exported, considering the shipping bills as application for refund of IGST, the Respondents have to refund the said amount to the petitioner. But till date the said IGST has not been refunded to the petitioner for no fault of the petitioner. Despite repeated follow-up with the respondents till date, the amount of refund is not paid to the petitioner. It is very pertinent to note that the respondents had refunded the eligible refund amounts of the succeeding months without any demur.

2. In the light of these averments and contentions, the petitioner

has filed the instant writ petition (civil) with the following prayers:

Issue a writ of mandamus or any other appropriate writ or order directing the 3rd respondent to sanction and refund the amount of Rs.4,27,500/- (Rs. Four Lakhs Twenty Seven Thousand and Five Hundred only) of IGST paid by the petitioner for the goods exported from India, ie, 'Zero Rated Supplies' made vide Exhibit P2(a) shipping bill within a time limit fixed by this Court.

3. Heard Sri.P.S. Soman Pulladan, learned counsel appearing for the petitioner and Sri. P. Vijayakumar, learned Assistant Solicitor General appearing for R1, Union of India, and Sri. Thomas Mathew Nellimoottil, learned Central Government Counsel appearing for R2 to R5.

4. Taking note of the facts and circumstances of this case as disclosed in the pleadings and materials on record, it is ordered that the 3rd respondent or the competent authority of the respondents will take up the claim of the petitioner for grant of refund as referred to in Ext.P5 and after affording reasonable opportunity of being heard to the petitioner will take a considered decision thereon without much delay, preferably within a period of 3 to 4 weeks from the date of production of a certified copy of this order.

With these observations and directions, the above Writ Petition (Civil) stands finally disposed of.

Sd/-

ALEXANDER THOMAS

JUDGE

Nsd
//true copy//
PA to Judge

APPENDIX

PETITIONER'S/S EXHIBITS:

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| EXHIBIT P1 | TRUE COPY OF THE GST REGISTRATION CERTIFICATE OF THE PETITIONER. |
| EXHIBIT P2 | TRUE COPY OF THE EXPORT MOVIE NO.PSV/19/2017 DATED 25.10.2017. |
| EXHIBIT P2 (A) | TRUE COPY OF THE SHIPPING BILL NO.9507578 DATED 26.10.2017. |
| EXHIBIT P2 (B) | TRUE COPY OF THE BILL OF LADING NO.962682250 DATED 02.11.2017. |
| EXHIBIT P3 | TRUE COPY OF THE RETURN IN FORM GSTR-1 AS AMENDED IN JANUARY, 2018 FILED BY THE PETITIONER. |
| EXHIBIT P3 (A) | TRUE COPY OF THE RETURN IN FORM GSTR-3B FILED BY THE PETITIONER. |
| EXHIBIT P4 | TRUE COPY OF THE SCREENSHOT OF ICEGATE PORTAL OF TRANSMITTED DATA DETAILS. |
| EXHIBIT P5 | TRUE COPY OF THE SCREENSHOT OF ICEGATE PORTAL SHOWING THE STATUS AS RESOLVED. |