



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.23325 OF 2024

Credit Agricole CIB Services Private Limited

...Petitioner

Versus

The Union of India & Ors.

...Respondents

Mr. Prakash Shah a/w. Mr. jas Sanghavi, Mr. Mihir Deshmukh and Mr. Vikas Poojary i/b. M/s. PDS Legal for Petitioner.

Mr. Ram Ochani a/w. Ms. Niyati Mankad for Respondents.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.

DATED : 24 October 2024.

PC.:-

1. Heard learned counsel for the parties.
2. Rule. The rule is made returnable immediately at the request of and with the consent of the learned Counsel for the parties.
3. This petition challenges the refund rejection orders uploaded to the department's website on 25 April 2024.
4. The Petitioner applied for a refund via applications dated 25 April 2024. On 3 April 2024, the Petitioner was given a show-cause notice to show cause why these refund applications should not be rejected. These show-cause notices gave the Petitioner 15 days to

furnish their reply. This was in terms of Rule 92(3) of the CGST Rules, 2017.

5. The Petitioner filed its reply on 16 April 2024 which was uploaded on the department's website on 17 April 2024.

6. The impugned refund rejection orders were uploaded on 25 April 2024. The orders do not refer to any personal hearing in terms of Rule 92(3) of the CGST Rules, 2017.

7. However, Mr. Ochani, learned counsel for the Respondents, submits that the Petitioner was given a personal hearing on 8 April 2024. In this regard, he produced a screenshot of FORM-GST-RFD-01.

8. Rule 92(3) of the CGST Rules, 2017 read as follows:-

"92. Order sanctioning refund:-

(3) Where the proper officer is satisfied, for reasons to be recorded in writing, that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant, he shall issue a notice in Form GST RFD-08 to the applicant, requiring him to furnish a reply in Form GST RFD-09 within a period of fifteen days of the receipt of such notice and after considering the reply, make an order in Form GST RFD-06, sanctioning the amount of refund in whole or part, or rejecting the said refund claim and the said order shall be made available to the applicant electronically and the provision of sub-rule (1) shall, mutatis mutandis, apply to the extent refund is allowed:

Provided that no application for refund shall be rejected without giving the applicant a reasonable opportunity of being heard."

9. Thus, in terms of the proviso to Rule 92(3) of the CGST Rules, 2017, there is no question of rejecting any application for a refund without giving the applicant a reasonable opportunity to be heard.

10. As noted earlier, the show causes issued to the Petitioner gave the Petitioner 15 days to respond. Accordingly, they did respond by 17 April 2024. Therefore, it is rather incomprehensible how a hearing was allegedly given on 8 April 2024. The Petitioner has denied that any hearing was ever given. The show cause notice had also stated that the date and time of the hearing would be intimated to the Petitioner. There is no clear evidence of such intimation. In any event, proviso to Rule 92(3) of the CGST Rules, 2017, contemplates reasonable opportunity to be heard, implying that such hearing should be after the Petitioner files the reply within the time prescribed in the show cause notice.

11. For all the above reasons, we are satisfied that the impugned refund rejection orders are in breach of the requirements of Rule 92(3) of the CGST Rules, 2017 and the principles of natural justice and fair play.

12. Accordingly, we quash and set aside the refund rejection orders dated 25 April 2024 and remand the matter to Respondent No.3 for fresh consideration of the Petitioner's refund application dated 28 February 2024. This time, Respondent No.3 must give the Petitioner a reasonable opportunity of being heard and pass a reasoned order. This exercise must be completed within four weeks from today. All contentions of the parties on merits are left open.

13. The rule is made absolute in the above terms. There shall be no order for costs.

14. All concerned to act on an authenticated copy of this order.

(Jitendra Jain, J.)

(M. S. Sonak, J.)