

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 4485 of 2020**

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DHARMDEEP COMMODITIES PVT. LTD.
Versus
STATE OF GUJARAT

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Appearance:
MR UCHIT N SHETH(7336) for the Petitioner(s) No. 1,2
ADVANCE COPY SERVED TO GOVERNMENT PLEADER/PP for the Respondent(s)
No. 1
MR PY DIVYESHVAR(2482) for the Respondent(s) No. 4
NOTICE SERVED for the Respondent(s) No. 2,3
=====**CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA**
and
HONOURABLE MR. JUSTICE NIRAL R. MEHTA**Date : 04/01/2024****ORAL ORDER****(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)**

[1] By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for the following reliefs:

“A. This Hon’ble Court may be pleased to issue a writ of mandamus or a writ in nature of mandamus or any other appropriate writ or order directing the respondent authorities to grant refund to the petitioners under the GST Acts in terms of application dated 25.7.2019 (annexed at Annexure I);

B. It may please be held and declared that the online system of not allowing the petitioners to claim further refund for the same period within the statutory time limit is contrary to the provisions, object, purpose and scheme of the GST Acts;

C. It may please be held and declared that till the online system is rectified, the respondents are bound to accept and act upon manual refund claims in respect of refund admissible under the GST Acts;

C1. This Honourable Court may be pleased to direct the respondents to amend the online portal to allow the petitioners to file refund claims on more than one occasion within the statutory time limit.

D. Pending notice, admission and final hearing of this petition, this Hon'ble Court may be pleased to direct the respondent authorities to grant refund to the petitioners under the GST Acts in terms of application dated 25.7.2019 (annexed at Annexure I);

E. Ex parte ad interim relief in terms of prayer C may kindly be granted;"

[2] Learned advocate Mr. Uchit Sheth for the petitioner submitted that the petitioner has approached this Court as the respondents authorities did not decide the application filed by the petitioner for refund for the months of December 2017 and January 2018, which was denied due to technical problems in the GSTN portal of the respondent.

[3] It was submitted that the petitioner was entitled to the refund for the month of November 2017, however, the portal has taken the outstanding balance in the Electronic Credit Ledger as on February 2018 when the petitioner filed refund application, and accordingly, the refund for November 2017 was considered for higher amount. Whereas, the refund application for December 2017 and January 2018 was considered for lower amount as the

sufficient balance in the Electronic Credit Ledger was already utilized by the portal while considering the refund application for November 2017. It was submitted that at the relevant time, the facility for re-credit of excess amount was not available on the portal, which was made available only in the year 2019. It was submitted that in such circumstances, the petitioner preferred a representation before the respondent authority to consider such problems because of the faulty GSTN portal.

[4] Considering the above submissions, the respondents authorities are directed to consider the representation made by the petitioner within a period of four weeks from today and place the findings and conclusion arrived at, after giving an opportunity of hearing to the petitioner, on record of this petition.

[5] Stand over to 28th February 2024. Direct service for respondents Nos.1, 2 and 3 is permitted. Direct service for respondent No.4, through E-mail, is permitted.

(BHARGAV D. KARIA, J)

(NIRAL R. MEHTA, J)

CHANDRESH