

Refund application cannot be rejected without giving proper reason

The Hon'ble Delhi High Court in the matter of *M/s Chegg India Pvt. Ltd. v. Commissioner of Central Goods and Services Tax [W.P.(c) 14886 of 2022 dated July 19, 2023]* held that the refund application cannot be rejected without giving a proper reason and stated that the Revenue department may issue a fresh notice, clearly setting out the reasons for proposing to reject the refund claim and the assessee file a response in Form RFD-09, within the prescribed period.

Facts:

M/s Chegg India Pvt. Ltd. ("**the Petitioner**") is engaged in the business of software development, content development, marketing and other IT enabled services in the field of education technology.

The Petitioner submitted that they export education services in 70 countries without payment of GST i.e. under LUT model.

Since, the services are zero rated supplies as per Section 16 of the Integrated Goods and Services Tax Act, 2017 ("**the IGST Act**") they are eligible to claim refund of Input Tax Credit ("**ITC**") on Input Services used in export of services.

Accordingly, the Petitioner filed the refund application of ITC which *inter alia* included ITC pertaining to catering charges and common area maintenance charges ("**CAM**").

The Revenue Department ("**the Respondent**") vide an order dated March 02, 2020 ("**the Order**") rejected the refund claim filed by the Petitioner.

Aggrieved by the Order, the Petitioner filed an appeal before the Appellate Authority who vide an order dated September 21, 2021 ("**the Impugned Order**") rejected the appeal of the Petitioner by merely referring Section 17(5)(b) of the Central Goods and Services Tax Act, 2017

(“the CGST Act”). However, the Appellate Authority held that the Petitioner has not fulfilled the conditions of Section 16 of the CGST Act.

Aggrieved by the Impugned Order the Petitioner filed a writ before the Hon’ble Delhi High court praying to quash the Impugned Order and order the Respondent to grant the refund.

Issue:

Whether the application of refund can be rejected without giving any reason?

Held:

The Hon’ble Delhi High Court in ***W.P.(c) 14886 of 2022*** held as under:

- Observed that, there is a fundamental error in the manner in which the petitioner’s refund applications have been processed.
- Noted that, the Appellate authority had not issued any notice as required under Rule 92(3) of the Central Goods and Services Tax Rules, 2017 (**“the CGST Rules”**) setting out the reasons for rejecting the refund thus, the Petitioner had no opportunity to satisfy the Appellate Authority to its claim for refund to the extent it has been rejected.
- Held that, the application of refund claim cannot be rejected without giving a proper reason and a proper opportunity should be given to the Petitioner to show the reason why refund should not be rejected.
- Set aside the Impugned order and stated that the Respondent is at the liberty to issue a fresh notice, clearly setting out the reasons for proposing to reject the refund claims to the extent it has and the Petitioner in terms of Rule 92(3) of the CGST Rules, file a response in Form RFD-09, within the prescribed period.

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