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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 4th December, 2025

Uploaded on: 6th December, 2025

+ **W.P.(C) 12424/2025& CM APPL. 54016/2025**

PHOENIX IMPEX

.....Petitioner

Through: Mr. Siddharth Sarwal, Adv.
versus

SALES TAX OFFICER CLASS II AVATO &
ANR.

.....Respondents

Through: Ms. Vaishali Gupta, Panel Counsel
(Civil) GNCTD

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed, *inter alia*, seeking refund claim of the sum of Rs.25,16,760/- filed by the Petitioner *vide* application bearing ARN No. AA0701240394778 dated 15th January, 2024.
3. The Petitioner had filed the said refund application for the unutilised Input Tax Credit (hereinafter "*ITC*") on 15th January, 2024 for the month of November, 2023. The grievance of the Petitioner is that the same has not been processed and granted to the Petitioner despite the strict timelines under Section 54 of the Central Goods and Service Tax Act, 2017 (hereinafter, '*CGST Act*'), including Section 54(7) of the CGST Act.
4. Mr. Siddhanth Sarwal, Id. Counsel for the Petitioner relies upon the decision of the Calcutta High Court in *Suraj Mangar vs. Assistant*



Commissioner of West Bengal State Tax, (2025) 33 Centax 70 (Cal.) to argue that the said timelines are mandatory.

5. It is also brought to the notice of the Court that after filing of the present writ and the listing of the matter on 19th August, 2025, on 21st August, 2025, a Show Cause Notice (hereinafter, 'SCN') had been issued along with the acknowledgement for the refund application in the following terms:

*“This has reference to your above mentioned application for refund on account of Export of Goods & Services without payment of Integrated Tax claiming refund amounting to **Rs. 2516760/-** for the tax period November, 2023.*

In order to examine the refund application, Taxpayer to provide following Clarification in respect of claim refund:

Sl. No.	Description	Inadmissible Amount in Rs.
01.	-As per the GSTR-2A of M/s GARD ENTERPRISES (07CKDPK5377H1ZX), the supplier has not adequately remitted payment of tax through cash and has utilized ITC over 90% for the payment of due tax liability during the period. Therefore you are hereby directed to provide relevant supporting document such as Bills, E-way bills, Payment proof to the supplier and proof of movement of goods for the purchase made from GARG Enterprises, etc.	25,16,760/-
02.	-Any other documents in support of your claim of refund.	
	Total	25,16,760/-

In view of the above mentioned facts, you are hereby directed to show cause, why your above mentioned refund Applicant vide ARN no. AA0701240394778 dated: 15.01.2024 should not be rejected on the ground mentioned above.

You are hereby directed to furnish a reply to this notice



within fifteen days from the date of service of this notice. You are directed to appear before the undersigned on 26/08/25 at 11 AM.

If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex parte on the basis of available records and on merits.”

6. It is clear from the above that the main reason why the refund has been held up is on the ground that the supplier has not remitted the amount of tax through cash. Secondly, the supplier has utilised over 90% ITC for the payment of tax liability.

7. Ld. Counsel for the Petitioner submits that there is no bar in utilising 90% of ITC for the payment of due tax liability in terms of Rule 86(B) of the Central Goods Service and Tax Rules, 2017 (hereinafter “2017 Rules”).

8. Notice was issued on 29th August, 2025 and the following directions were issued:

“10. Let the GST Department file a reply on this legal issue as also on the timelines explaining the position.

11. Let the Petitioner be given a personal hearing as the reply to the SCN has already been filed. Thereafter, let the order be passed after considering all the contentions of the Petitioner including legal issues raised in accordance with law.

12. Let the copy of the said order be placed on record. The order shall be subject to the outcome of this writ petition.”

9. The refund order has been passed in this matter on 19th September, 2025, sanctioning a refund of Rs.25,16,760/-. However, insofar as interest component is concerned, the said order is absolutely silent.



10. In view of the fact that the refund has now been sanctioned, let the refund amount be credited to the Petitioner, along with the statutory applicable interest, in accordance with law.
11. The payment shall be made within a period of one month.
12. The petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

DECEMBER 4, 2025/pd/msh