

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 12920 of 2022**

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ROTOMAG MOTORS AND CONTROLS PVT LTD
Versus
STATE OF GUJARAT

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Appearance:

MR VIVEK V BAPAT(11715) for the Petitioner(s) No. 1

MS. MEGHNA A PATEL(6651) for the Petitioner(s) No. 1

MR. KRUTIK PARIKH, ASSISTANT GOVERNMENT PLEADER/PP for the
Respondent(s) No. 1

NOTICE SERVED BY DS for the Respondent(s) No. 2,3

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CORAM: HONOURABLE MR. JUSTICE N.V.ANJARIA
and
HONOURABLE MR. JUSTICE BHARGAV D. KARIA

Date : 14/09/2022

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE N.V.ANJARIA)

Heard learned advocate Mr. Vivek Bapati for the petitioner and learned Assistant Government Pleader Mr. Krutik Parikh for the respondent No.1

2. The prayer in this petition is to set aside the order dated 14.3.2022 passed by the respondent No.3, whereby the request of the petitioner for refund of CGST has been turned down on the ground that the request under section 54 of the Central Goods and Services Tax Act, 2017 for refund, was made belatedly.

3. When the petition comes up for consideration, learned advocates for the parties are *ad idem* that in view of the Notification dated 5.7.2022 bearing No. 13/2022 issued by the Central Government in exercise of

powers under section 168A of the Central Goods and Services Tax Act, 2017, which excludes the time limit specified for computing of period of limitation in filling the refund application, the claim of the petitioner for refund was filed within such excluded period.

4. The Notification reads as under, in particular clause (ii) of the Notification applies to the case of the petitioner,

NOTIFICATION
New Delhi, the 5th July, 2022
No. 13/2022-Central Tax

G.S.R. 516(E)-In exercise of the powers conferred by section 168A of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act) read with section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) and section 21 of the Union Territory Goods and Services Tax Act, 2017 (14 of 2017) and in partial modification of the notifications of the Government of India in the Ministry of Finance (Department of Revenue), No. 35/2020-Central Tax, dated the 3rd April, 2020, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 235(E), dated the 3rd April, 2020 and No. 14/2021-Central Tax, dated the 1st May, 2021, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 310(E), dated the 1st May, 2021, the Government, on the recommendations of the Council, hereby,-

(i) extends the time limit specified under sub-section (10) of section 73 for issuance of order under sub-section (9) of section 73 of the said Act, for recovery of tax not paid or short paid or of input tax credit wrongly availed or utilized, in respect of a tax period for the financial year 2017-18, up to the 30th day of September, 2023;

(ii) excludes the period from the 1st day of March, 2020 to the 28th day of February, 2022 for computation of period of limitation under sub-section (10) of section 73 of the said Act for issuance of order under sub-section (9) of section 73 of the said Act, for recovery erroneous refund;

(iii) excludes the period from the 1st day of March, 2020 to the 28th day of February, 2022 for computation of period of limitation for filing refund application under section 54 or section 55 of the said Act.

2. This notification shall be deemed to have come into force with effect from the 1st day of March, 2020.

[F. No. CBIC-20001/2/2022-GST]
Rajeev Ranjan, Under Secretary

5. The above aspect could not be disputed by learned advocate for the respondents.

6. In light of the above, the impugned order rejecting the refund application is set aside. The competent authority of the respondents is directed to process in accordance with law the claim of refund of the petitioner treating it within time and grant refund with statutory interest, if the petitioner is found eligible. The exercise shall be completed within a period of 12 weeks from the date of receipt of copy of this order.

7. The petition stands disposed of in the aforesaid terms.

(N.V.ANJARIA, J)

(BHARGAV D. KARIA, J)

C.M. JOSHI