



W.P.No.20805 of 2022

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 21.02.2025

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P.No.20805 of 2022

M/s.Jouve India Pvt. Ltd.,
Rep. By its Managing Director,
Chennai.

.. Petitioner

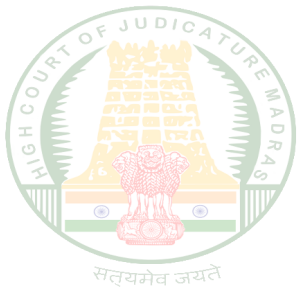
Vs

1.The Commissioner of GST & Central Excise,
Chennai South Commissionerate,
692, MHU Complex,8th floor,
Anna Salai, Chennai-35.

2.The Assistant Commissioner of CGST & Central Excise,
Perungudi Division,
692, MHU Complex,8th floor,
Anna Salai, Chennai-35.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India seeking for issuance of a writ of certiorarified mandamus to call for the records of the impugned Order-in-Appeal No.128/2022, dated 27.04.2022 of the Commissioner (Appeals-II) and quash the same and further direct the second respondent to sanction refund for all the exports made during the period 01.04.2019 to 25.09.2019 and pass such further orders.



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For Petitioner : Mr.R.Anish Kumar

For Respondents : Mr.S.Gurumoorthy, SPC

ORDER

This writ petition has been filed challenging the Order-in-Appeal No.128/2022, dated 27.04.2022, passed by the first respondent, under which, the petitioner's claim for refund has been partially rejected on the ground that the request for refund has been sought beyond the prescribed period.

2. The learned counsel for the petitioner drew the attention of this Court to the counter affidavit filed by the respondents before this Court and in particular, he referred to paragraph No.9. In the said paragraph, it has been made clear that Central Board of Indirect Taxes (CBIC) has issued Notification No.13/2022-Central Tax, dated 05.07.2022, excluding the period from 01.03.2020 to 28.02.2022 for computation of period of limitation for filing refund application under Sections 54 and 55 of the Central Goods and Services Tax Act, 2017. The learned counsel for the petitioner would submit that if the aforementioned notification was taken into consideration, the application seeking for refund submitted by the



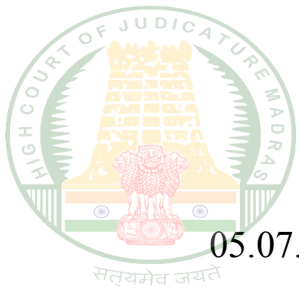
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petitioner is well within the period of limitation. Therefore, he would

submit that the impugned order-in-appeal dated 27.04.2022 has to be quashed and the matter has to be remanded back to the respondents for fresh consideration, in the light of Notification No.13/2022-Central Tax, dated 05.07.2022.

3. The learned standing counsel for the respondents also fairly submits that only subsequent to the passing of the impugned order, Notification No.13/2022-Central Tax, dated 05.07.2022, which saves limitation for the period from 01.03.2020 to 28.02.2022, has come into place.

4. In view of the Notification No.13/2022-Central Tax, dated 05.07.2022, which has not been considered in the impugned order-in-appeal, which would have entitled the petitioner to get refund as prayed for in their application, necessarily, the impugned order-in-appeal has to be quashed insofar as the request for refund for the period from 01.04.2019 to 25.09.2019 and the matter has to be remanded back to the second respondent for fresh consideration on merits and in accordance with law, in the light of Notification No.13/2022-Central Tax, dated



05.07.2022.

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5. Accordingly, the impugned order-in-appeal dated 27.04.2022 passed by the first respondent is hereby quashed insofar as the request of the petitioner for refund for the period from 01.04.2019 to 25.09.2019 and the matter is remanded back to the second respondent for fresh consideration on merits and in accordance with law, and the second respondent shall pass final orders in the light of Notification No.13/2022-Central Tax, dated 05.07.2022, within a period of 12 weeks from the date of receipt of a copy of this order. In the result, the writ petition is disposed of. No Costs.

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Index: yes/no
Neutral citation: yes/no
speaking/non-speaking
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To
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ABDUL QUDDHOSE,J.

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