

TAX INFO

Dated 12/04/2022

Latest update on GST Law: Information regarding **Interest @6% ought to be given in case of delayed processing of refund application by the Department given in Judgment by Gujarat High Court.**

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Name of Petitioner	Parekh Plasticchem Distributors LLP
Name of Respondent	Union Of India
Court	Gujarat High Court
Date of Judgement	23.03.2022
Appeal No.	R/Special Civil Application No. 11423 Of 2020

Brief Facts of the Case Law:

The writ-applicant is engaged in the export of Fly Ash. It received a purchase order from one M/s. Buildex Trading and Contracting WLL located at Doha, Qatar for the purchase of Fly Ash. The goods were exported to Qatar. The writ-applicant issued export invoices to the foreign customer, wherein the IGST was charged. The shipping bills were duly filed with the customs authorities, wherein the details of IGST paid on the exports were stated. The shipping company accepted the goods for transportation to Qatar and issued the bills of lading. The writ-applicant received the entire consideration towards the export invoices in foreign exchange. The IGST on exports as mentioned in the shipping bills was duly paid by the writ-applicant along with the returns filed under the GST Act. Rule 96 of the Central Goods and Services Tax Rules, 2017 provides that the shipping bills are themselves to be considered as refund applications for the IGST paid on the exports. The IGST amounts were mentioned in the shipping bills and therefore, the writ-applicant had reasons to believe that the customs authorities would grant refund of the IGST on the basis of the shipping bills. The writ-applicant had the grievance that the IGST refund for exports made to Qatar in the month of September 2018 was not processed. Ultimately, the refund amount was credited in the account of the writ-applicant on 17.01.2022 i.e. during the pendency of the present writ-application. Thus, the main grievance as regards non-sanctioning of the amount towards refund has been taken care. The only issue now remains as regards the statutory interest to be paid on the delayed refund amount. This statutory interest is in accordance with Section-56 of the CGST Act, 2017.

Decision of the Court:

The plain reading of Section-56 of the Act would indicate that if any tax, which is ordered to be refunded under Sub-section (5) of Section-54 to any applicant, is not refunded within sixty days from the date of receipt of the application under Sub-section (1) of that section, interest at the rate of 6% shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application.

The writ-applicant is entitled to interest on the delayed payment towards refund at the rate of 6% and authorities concerned ought to calculate the amount towards interest towards the delayed refund within a period of six weeks.

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