

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 15925 of 2018****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR.JUSTICE J.B.PARDIWALA****and****HONOURABLE MR.JUSTICE A.C. RAO**

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	YES
2	To be referred to the Reporter or not ?	NO
3	Whether their Lordships wish to see the fair copy of the judgment ?	NO
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	NO

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M/S SARAF NATURAL STONE

Versus

UNION OF INDIA

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Appearance:

MR VINAY SHRAFF, ADVOCATE WITH MR.VISHAL J DAVE(6515) for the
Petitioner(s) No. 1,2

MR VINAY SHRAFF, ADVOCATE WITH NIPUN SINGHVI(9653) for the
Petitioner(s) No. 1,2

MR PY DIVYESHVAR(2482) for the Respondent(s) No. 2

NOTICE SERVED BY DS(5) for the Respondent(s) No. 1

VIRAL K SHAH(5210) for the Respondent(s) No. 3

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CORAM: HONOURABLE MR.JUSTICE J.B.PARDIWALA

and

HONOURABLE MR.JUSTICE A.C. RAO

Date : 10/07/2019

ORAL JUDGMENT

(PER : HONOURABLE MR.JUSTICE J.B.PARDIWALA)

1. By this writ-application under Article 226 of the Constitution of India, the writ-applicants have prayed for the following reliefs:-

4(a) To issue writ of mandamus and/or any other appropriate writ(s) for directions to the Respondents for providing appropriate compensation as well as interest, for delay in the granting of refund;

(b) To issue order(s), direction(s), writ(s) or any other relief(s) as this Hon'ble Court deems fit and proper in the facts and circumstances of the case and in the interest of justice;

(c) To award costs of and incidental to this application be paid by the Respondents;

2. The case of the writ-applicants in their own words as pleaded in the writ-application is as follows:-

2.1 The petitioner no.1 is a registered partnership firm having registration number 99984019206 and its principal place of business is at 902, 9th Floor, Indraprasth Corporate, Opposite Shell Petrol Pump, Satellite, Ahmedabad, Gujarat-380015. The petitioners state that the petitioner no.1 is registered under the CGST Act and IGST Act 2017, vide registration bearing no.24ADDFS3029H1ZA.

2.2 The petitioner no.2 is a citizen of India and partner of the petitioner no.1 firm. In the instant case, by reasons of the wrongful and illegal actions of the respondents, the rights of the petitioner no.2 to carry on business and/or hold property through the agency and/or instrumentality of the petitioner no.1 has been seriously prejudiced and adversely affected.

2.3 *The respondent no.1 is the Union of India, represented through the Ministry of Finance, Department of Revenue and is responsible for notifying the IGST Act, 2017 and also responsible for framing the rules thereunder. The respondent no.2 is the Central Board of Indirect Tax and Custom, Department of Revenue and responsible for implementation of rules as framed by the Respondent No.1. The respondent No.3 is Goods and Services Tax Network (GSTN) which is a Section 8, non-Government, private limited company. The company has been set up primarily to provide IT infrastructure and services to the Central and State Governments, tax payers and other stakeholders for implementation of the Goods and Services Tax (GST).*

2.4 *The petitioners state that the cause of action in the instant case has arisen within the territorial jurisdiction of this Hon'ble Court.*

2.5 *The petitioners state that in terms of Section-16 of the IGST Act, 2017, a registered person making exports of goods outside India, shall be eligible to claim, refund of either unutilized input tax credit on export of goods under bond or letter of undertaking, or refund of integrated tax paid on export of goods.*

2.6 *The petitioners further state that Section 16(3) of the IGST Act, provides that refund should be claimed in accordance with the provisions of section 54 of the CGST Act or the rules made thereunder. Section 20 of the IGST Act further provides that provisions of CGST Act relating to refunds shall, mutatis mutandis, apply, so far as may be, in relation to integrated tax as they apply in relation to central tax as they apply in relation to central tax as if they are enacted under this Act.*

2.7 The petitioners further state that Rule 2 of the Integrated Goods and Services Tax Rules, 2017 provides that the Central Goods and Services Tax Rules, 2017, for carrying out the provisions specified in section 20 of the Integrated Goods and Services Tax Act, 2017 shall, so far as may be, apply in relation to integrated tax as they apply in relation to central tax.

2.8 The petitioners further state that, section 54 of the CGST Act provides for refund as envisaged under section 16 of the IGST Act in a time bound manner.

2.9 The petitioners state that Rule 91 of CGST Rules, 2017 inter-alia provide that the provisional refund is to be granted within 7 days from the date of acknowledgment of the refund claim. An order for provisional refund is to be issued in Form GST RFD-04 along with payment advice in the name of the claimant in Form GST RFD 05. The amount will be electronically credited to the claimant's bank account.

2.10 The petitioners state that Rule 90 of the CGST Rules provides that acknowledgment for application for claim for refund in FORM GST RFD-02 shall be made available to the applicant through the common portal electronically within fifteen days of the filing of the application. If any deficiencies are noticed, the proper officer shall communicate the deficiencies to the applicant in FORM GST RFD-03 through the common portal electronically, requiring him to file a fresh refund application after rectification of such deficiencies.

2.11 The petitioners further states that it appears from the bare perusal of Section 54(6) of the CGST Act read with Rule 91 of the CGST Rule that a registered person exporting goods is entitled to provisional refund of 90%

of his refund claim within a period not exceeding seven days from the date of the acknowledgment unless the person claiming refund has, during any period of five years immediately preceding the tax period to which the claim for refund relates, has been prosecuted for any offence under the Act or under an existing law where the amount of tax evaded exceeds two hundred and fifty lakh rupees or the proper officer, after scrutiny of the claim and the evidence submitted in support thereof is prima facie not satisfied.

2.12 The petitioners further state that, Rule 96 of the CGST Rule envisages the refund of integrated tax paid on goods exported outside India. Rule 96 provides that the shipping bill filed by an exporter shall be deemed to be an application for refund of integrated tax paid on the goods exported outside India subject to filing of export general manifest and valid return in Form GSTR-3 or Form GSTR-3B.

2.13 The petitioners further state that Section 56 of the CGST Act further provides that if any tax 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 application under sub-section (1) of that section, interest at such rate not exceeding six percent as may be specified in the notification issued by the Government on the recommendations of the GST Council 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 under the said sub-section till the date of refund of such tax.

2.14 The petitioners further state that the Central Government vide Notification No.13/2017 – Central Tax, dated 28-06-2017 and Notification No.6/2017 – Integrated Tax dated 28-06-2017 has fixed the

rate of interest from the 1st day of July, 2017 at 6% p.a. and 9% p.a. for the purposes of section 56 and proviso to section 56 of CGST Act 2017 respectively.

2.15 The petitioners state that it is evident from the bare perusal of the Rule 94 of the CGST Rules that proper officer is mandated to order sanctioning of interest on delayed refunds suo motu, where any interest is due and payable to the applicant under section 56, without any application to be made by the registered person for any delay in the refund.

2.16 Without prejudice to the submission in para 2.15 above, the petitioners further state that there is also no option available on the common portal to enable the registered person to make application for claiming compensation/ interest on delayed refund. It would be evident from the perusal of the above user manual that the options available on the GST portal regarding selection of the refund type has no option to claim interest for delayed refund.

2.17 The petitioners further state that it received the refund of integrated tax paid on export of goods after substantial period of delay.

2.18 The petitioners further state that it did not receive any deficiency notice also as prescribed under Rule 90 in FORM GST RFD-03 about the deficiencies, if any, in the application for refund.

2.19 The petitioners further state that it has not been prosecuted for any offence under the Act or under an existing law where the amount of tax evaded exceeds two hundred and fifty lakh rupees during any period of five years immediately preceding the tax period to which the claim for refund

relates.

2.20 The petitioners further state that it has not defaulted in furnishing any return, tax, interest or penalty.

2.21 The petitioners further state that it has not exported the goods in violation of the provisions of the Customs Act, 1962.

2.22 The petitioners having no option available with it to lodge their claim of interest on delayed refund also approached their jurisdictional GST authorities i.e. Assistant Commissioner, Commissionerate: Ahmedabad, Ghatak:9 to guide them about claim of interest on refund. However, the above officer expressed his inability to help the petitioner in any which manner, stating that all refund related processing is only being done through GST portal and he is not empowered or authorized to entertain any application or prayer in this respect.

3. Thus, from the pleadings and the other materials on record, the writ-applicants are seeking compensation and interest towards the substantial delay in making payment of the refund of the Integrated Tax paid on the export of goods in terms of Section-16 of the Integrated Goods and Services Tax (IGST) Act, 2017 and the Rules made thereunder, *mutatis mutandis* read with the provisions relating to the refund of the Central Goods and Services Tax (CGST) Act, 2017 and the Rules made thereunder.

4. Mr Shraff, the learned counsel appearing for the writ-applicants vehemently submitted that the inaction leading to inordinate delay in granting of refund could be termed as arbitrary and violative of Articles-

14 and 19 of the Constitution of India. Mr. Shraff submitted that the inordinate delay in granting of refund severely impacted the working capital of the company and thereby substantially, diminished its ability to continue its business.

5. Mr. Shraff submitted that the respondents have failed to even file any reply for the purpose of explaining the delay. In such circumstances referred to above, Mr. Shraff, the learned counsel prays that this Court may award appropriate compensation alongwith the interest for the delay in granting of refund.

6. On the other hand, this writ-application has been vehemently opposed by the learned counsel appearing for the respondents. The learned counsel appearing for the respondents submitted that unless there is a specific provision providing for the entitlement of the interest of refund, no interest would be available since equity has no role to play in the matters of taxation. The learned counsel appearing for the respondents submitted that there is no express provision made for the entitlement to the interest to the assessee as referred to above. The learned counsel for the respondents submitted that there being no merit in this application, the same may be rejected.

7. Having heard the learned counsel appearing for the parties and having gone through the materials on record, the only question that falls for our consideration is – whether the writ-applicants are entitled to seek compensation alongwith the interest for the delayed refund?

ANALYSIS:-

8. Before advertng to the rival submissions canvassed on either side, we should look into few relevant provisions of the Act and the Rules.

9. Section-16 of the IGST Act is set out below:-

Section-16. Of the IGST Act

(1) “zero rated supply” means any of the following supplies of goods or services or both, namely:—

- (a) export of goods or services or both; or
(b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

(2) Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.

(3) A registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely:—

- (a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilised input tax credit; or
(b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder.

10. Section-54 of the CGST Act is set out below:-

Section-54 of the CGST Act

(5) If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in section 57.

(6) Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent. of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, in such manner and subject to such conditions, limitations and

safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.

(7) The proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects.

11. Rule 91 of the CGST Rule is re-produced herein below:-

Rule 91 Grant of provisional refund:

(1) The provisional refund in accordance with the provisions of sub-section (6) of section 54 shall be granted subject to the condition that the person claiming refund has, during any period of five years immediately preceding the tax period to which the claim for refund relates, not been prosecuted for any offence under the Act or under an existing law where the amount of tax evaded exceeds two hundred and fifty lakh rupees.

(2) The proper officer, after scrutiny of the claim and the evidence submitted in support thereof and on being prima facie satisfied that the amount claimed as refund under sub-rule (1) is due to the applicant in accordance with the provisions of sub-section (6) of section 54, shall make an order in FORM GST RFD-04, sanctioning the amount of refund due to the said applicant on a provisional basis within a period not exceeding seven days from the date of the acknowledgement under sub-rule (1) or sub-rule (2) of rule 90.

(3) The proper officer shall issue a ³payment advicepayment order in FORM GST RFD-05 for the amount sanctioned under sub-rule (2) and the same shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

12. Rule 90 of the CGST Rule provides that the acknowledgment for application for claim for refund in FORM GST RFD-01 shall be made available to the applicant through the common portal electronically within 15 days of the filing of the application. Rule 90 is set out below:-

Rule 90 Acknowledgement:

(1) Where the application relates to a claim for refund from the

electronic cash ledger, an acknowledgement in FORM GST RFD-02 shall be made available to the applicant through the common portal electronically, clearly indicating the date of filing of the claim for refund and the time period specified in sub-section (7) of section 54 shall be counted from such date of filing.

(2) The application for refund, other than claim for refund from electronic cash ledger, shall be forwarded to the proper officer who shall, within a period of fifteen days of filing of the said application, scrutinize the application for its completeness and where the application is found to be complete in terms of sub-rule (2), (3) and (4) of rule 89, an acknowledgement in FORM GST RFD-02 shall be made available to the applicant through the common portal electronically, clearly indicating the date of filing of the claim for refund and the time period specified in sub-section (7) of section 54 shall be counted from such date of filing.

(3) Where any deficiencies are noticed, the proper officer shall communicate the deficiencies to the applicant in FORM GST RFD-03 through the common portal electronically, requiring him to file a fresh refund application after rectification of such deficiencies.

(4) Where deficiencies have been communicated in FORM GST RFD-03 under the State Goods and Service Tax Rules, 2017, the same shall also deemed to have been communicated under this rule along with the deficiencies communicated under sub-rule (3).

13. Rule 96 of the CGST Rules envisage the refund of Integrated Tax Paid on goods exported outside India. The same is reproduced herein below:-

Rule 96: Refund of Integrated Tax paid on Goods or Services Exported out of India.

(1) The shipping bill filed by an exporter of goods shall be deemed to be an application for refund of integrated tax paid on the goods exported out of India and such application shall be deemed to have been filed only when:-

(a) the person in charge of the conveyance carrying the export goods duly files a departure manifest or an export manifest or an export report covering the number and the date of shipping bills or bills of export; and

(b) the applicant has furnished a valid return in FORM GSTR-3 or

FORM GSTR-3B, as the case may be;

(2) The details of the relevant export invoices in respect of export of goods contained in FORM GSTR-1 shall be transmitted electronically by the common portal to the system designated by the Customs and the said system shall electronically transmit to the common portal, a confirmation that the goods covered by the said invoices have been exported out of India.

Provided that where the date for furnishing the details of outward supplies in FORM GSTR-1 for a tax period has been extended in exercise of the powers conferred under section 37 of the Act, the supplier shall furnish the information relating to exports as specified in Table 6A of FORM GSTR-1 after the return in FORM GSTR-3B has been furnished and the same shall be transmitted electronically by the common portal to the system designated by the Customs:

Provided further that the information in Table 6A furnished under the first proviso shall be auto-drafted in FORM GSTR-1 for the said tax period.

(3) Upon the receipt of the information regarding the furnishing of a valid return in FORM GSTR-3 or FORM GSTR-3B, as the case may be from the common portal, the system designated by the Customs or the proper officer of Customs, as the case may be, shall process the claim of refund in respect of export of goods and an amount equal to the integrated tax paid in respect of each shipping bill or bill of export shall be electronically credited to the bank account of the applicant mentioned in his registration particulars and as intimated to the Customs authorities.

(4) The claim for refund shall be withheld where,-

(a) a request has been received from the jurisdictional Commissioner of central tax, State tax or Union territory tax to withhold the payment of refund due to the person claiming refund in accordance with the provisions of sub-section (10) or sub-section (11) of section 54; or

(b) the proper officer of Customs determines that the goods were exported in violation of the provisions of the Customs Act, 1962.

(5) Where refund is withheld in accordance with the provisions of clause (a) of sub-rule (4), the proper officer of integrated tax at the Customs station shall intimate the applicant and the jurisdictional Commissioner of central tax, State tax or Union territory tax, as the case may be, and a copy of such intimation shall be transmitted to the common portal.

(6) Upon transmission of the intimation under sub-rule (5), the proper officer of central tax or State tax or Union territory tax, as the case may be, shall pass an order in Part B of FORM GST RFD-07.

14. Section-56 of the CGST Act provides that if any tax 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 such rate not exceeding 6% as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of the application under the sub-section till the date of refund of such tax. Section-56 of the CGST Act reproduced herein below:-

Section-56: Interest on Delayed Refunds:

If any tax 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 application under subsection (1) of that section, interest at such rate not exceeding six per cent. as may be specified in the notification issued by the Government on the recommendations of the Council 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 under the said sub-section till the date of refund of such tax:

Provided that where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding nine per cent. as may be notified by the Government on the recommendations of the Council 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 till the date of refund.

Explanation: For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5).

15. Rule 94 of the CGST provides for the order sanctioning interest on delayed refunds. It reads as follows:-

Rule 94: Order Sanctioning Interest on Delayed Refunds:

Where any interest is due and payable to the applicant under section 56, the proper officer shall make an order along with a payment order in FORM GST RFD-05, specifying therein the amount of refund which is delayed, the period of delay for which interest is payable and the amount of interest payable, and such amount of interest shall be electronically credited to any of the bank accounts of the applicant mentioned in his registration particulars and as specified in the application for refund.

16. We shall now look into few decisions of different High Courts including our High Court on the subject.

17. The Calcutta High Court in the case of **Shiv Kumar Jain Vs. Union of India reported in 2004 (168) E.L.T. 158 (Cal.)** held as under:-

“4. In my view, the time taken for refund of the money in terms of the CEGAT's order is unreasonable. CEGAT's order was passed on 21st June, 2001 so one could expect either the matter to be taken to higher up, and for this, under law ninety days time is given and on expiry of this time the department was expected to refund this money, since it is a Government Department. So, unlike the ordinary citizen another three months of grace time may be given for taking action. So, the department should have released this amount within the reasonable time of six months, namely by 31st December, 2001. Unfortunately, this has not been done. So, I think after expiry of 31st December, 2001 the Government has no justification for withholding this money, and I hold this is an negligent inaction on the part of the Government. The Government cannot deprive the enjoyment of the property without due recourse to law and this withholding cannot be termed to be a lawful one nor an established procedure under the law. Therefore, this inaction is wholly unjustified and this has really caused the deprivation of the petitioner's enjoyment of the property namely the aforesaid amount. Therefore, this is positively violative of the provision of Article 300A in Chapter IV under Part XII of the Constitution of

India. When there is breach of constitutional right either by omission or by commission by the State such breach can be remedied under Article 226 of the Constitution of India. The petitioner could have earned interest during this period but because of the withholding this could not be done. I find in support of my observation from the judgment cited by Mr. Chowdhury as above. In that case a pre deposit amount was directed to be refunded with interest at the rate of 15% per annum. Of course at that point of time the rate of interest of Bank might be higher, but having regard to the present facts and circumstances of this case the rate of interest as allowable now admittedly by the Reserve Bank of India in case of its bond not exceeding 8% per annum, will be appropriate. Therefore, I direct the respondents to pay interest at the rate of 8% on the aforesaid amount of Rs.10 lacs to be calculated from January 2002 till 3rd April, 2003 when the payment of principal amount was effected. This payment of interest shall be made within a period of three months from the date of communication of this order. However, there will be no interest for this period.”

18. A Five Judge Bench of the Supreme Court in the matter of ***K.T. Plantation Pvt. Ltd. & Anr. Vs. State of Karnataka reported at (2011) 9 SCC 1*** in para 143 held that:

.....

(e) Public purpose is a pre-condition for deprivation of a person from his property under Article 300A and the right to claim compensation is also inbuilt in that Article and when a person is deprived of his property the State has to justify both the grounds which may depend on scheme of the statute, legislative policy, object and purpose of the legislature and other related factors.

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19. A Division Bench of this Court in the matter of ***State of Gujarat Vs. Doshi Printing Press reported at MANU/GJ/0420/2015*** held that:-

16. From the conjoint reading of the decision of the Apex Court in the case of Sandvik Asia Limited Vs. Commissioner of Income Tax & Others (supra) and the latter decision of the Larger Bench in the case of Commissioner of Income Tax, Gujarat Vs. Gujarat Fluoro Chemicals (supra) it appears that the liability to pay interest on interest by the Revenue is not approved and to that extent the contention of the Revenue can be maintained. But the further contention of the Revenue that no interest whatsoever would be payable if the refund of the

amount of tax or refund of the amount deposited towards tax is to be made, no interest whatsoever would be available by way of compensatory measure.

17. In our view, the general principles for awarding compensation to the Assessee for the delay in receiving monies properly due to it is not disapproved by the Larger Bench of the Apex Court in the case of Commissioner of Income Tax, Gujarat Vs. Gujarat Fluoro Chemicals (supra)."

13. In our view, the above-referred observation made by this Court in the above-referred decision in case of Gujarat Fluoro Chemicals (supra) is a complete answer to the contention of the learned A.G.P. that the interest can be awarded even if not expressly barred by the statute or that the taxing statute is silent about the same".

20. The word 'Compensation' has been defined in **P. Ramanatha Aiyar's Advanced Law Lexicon 3rd Edition 2005 page 918** as follows:

"An act which a Court orders to be done, or money which a Court orders to be paid, by a person whose acts or omissions have caused loss or injury to another in order that thereby the person damnified may receive equal value for his loss, or be made whole in respect of his injury; the consideration or price of a privilege purchased; some thing given or obtained as an equivalent; the rendering of an equivalent in value or amount; an equivalent given for property taken or for an injury done to another; the giving back an equivalent in either money which is but the measure of value, or in actual value otherwise conferred; a recompense in value; a recompense given for a thing received recompense for the whole injury suffered; remuneration or satisfaction for injury or damage of every description; remuneration for loss of time, necessary expenditures, and for permanent disability if such be the result; remuneration for the injury directly and proximately caused by a breach of contract or duty; remuneration or wages given to an employee or officer."

21. We may now reproduce the Chart indicating the delay in days:-

Delay in refund for SARAF NATURAL STONE

Month	Invoice Date	Refund Amount	Date of filing of GSTR 3	7 days from Return Filing	Date of Refund	Delay in days
	06/07/17	12018			18/06/2018	290

July'17	10/07/17	16380	25/08/2017	01/09/17	25/04/2018	236
	10/07/17	12763			25/04/2018	236
	11/07/17	2,33,103			04/12/17	94
	12/07/17	2,77,949			04/12/17	94
	13/07/2017	9183			25/04/2018	236
	13/07/2017	2,17,718			04/12/17	94
	13/07/2017	12534			25/04/2018	236
	14/07/2017	1,97,712			04/12/17	94
	14/07/2017	2,26,655			04/12/17	94
	14/07/2017	19720			25/04/2018	236
	15/07/2017	16274			04/12/17	94
	15/07/2017	25464			25/04/2018	236
	15/07/2017	12333			25/04/2018	236
	15/07/2017	14917			25/04/2018	236

22. The position of law appears to be well-settled. The provisions relating to an interest of delayed payment of refund have been consistently held as beneficial and nondiscriminatory. It is true that in the taxing statute the principles of equity may have little role to play, but at the same time, any statute in taxation matter should also meet with the test of constitutional provision.

23. The respondents have not explained in any manner the issue of delay as raised by the writ-applicants by filing any reply.

24. The chart indicating the delay referred to above speaks for itself.

25. In the overall view of the matter, we are inclined to hold the respondents liable to pay simple interest on the delayed payment at the rate of 9% per annum. The authority concerned shall look into the chart provided by the writ-applicants, which is at Page-30, Annexure-D to the writ-application and calculate the aggregate amount of refund. On the

aggregate amount of refund, the writ-applicants are entitled to 9% per annum interest from the date of filing of the GSTR-03. The respondents shall undertake this exercise at the earliest and calculate the requisite amount towards the interest. Let this exercise be undertaken and completed within a period of two months from the date of receipt of the writ of this order. The requisite amount towards the interest shall be paid to the writ-applicants within a period of two months from the date of receipt of the writ of this order.

26. With the above, this writ-application is disposed of.

(J. B. PARDIWALA, J)

(A. C. RAO, J)

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