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

*Date of decision: 12<sup>th</sup> August, 2025*

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**W.P.(C) 2486/2025**

ALKESH TACKER HUF REPRESENTED BY ITS KARTA  
ALKESH TACKER .....Petitioner

Through: Mr. Kanishk Rana, Adv  
versus

UNION OF INDIA & ORS. ....Respondents

Through: Ms. Vaishali Gupta, Panel Counsel for  
GNCTD.  
Mr. R. Ramachandran, SSC for  
Respondent.

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**JUSTICE SHAIL JAIN**

### **JUDGMENT**

**Prathiba M. Singh, J.**

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner challenging the impugned Refund Rejection Order dated 14th November, 2024.
3. The brief background of the case is that the Petitioner had purchased certain products being cordless sets and other items and had paid GST on the said purchases.
4. The same were exported by the Petitioner between September to December, 2021. These exports were zero rated supplies under Rule 96 (A) of the Central Goods and Service Tax Rules, 2017. The Petitioner filed a refund application on 12<sup>th</sup> August, 2023 and claimed refund of the unutilized



input credit tax of Rs 10,05,341/-. A Show Cause Notice dated 5th September, 2024 (hereinafter, SCN) was then issued to the Petitioner seeking the following documents from the Petitioner:-

Sl. No.	Description/Non-submission of the following documents	Amount inadmissible
1.	Declaration under second and third proviso to section 54(3)	Rs.10,05,341
2.	Undertaking in relation to sections 16(2)(c) and section 42(2)	
3.	Statement 3 under rule 89(2)(b) and rule 89(2)(c)	
4.	Statement 3A under rule 89(4)	
5.	Self-declaration regarding non-prosecution under sub-rule (1) of rule 91 of the CGST Rules for availing provisional refund	
6.	C.A Certificate	
7.	Letter of Undertaking (LUT)	
8.	Undertaking to refund GST amount as per rule 96(8)	

5. The Petitioner then filed a reply to the SCN on 11<sup>th</sup> September, 2024 and submitted all the relevant documents. The impugned order dated 14<sup>th</sup> November, 2024 was then passed. The said order reads as under:-

*"1. This has reference to application filed by M/s. ALMAD PANATECH (GSTIN 07AAGHA8675K1ZU) (hereinafter referred to as "Applicant") in Form RFD-01 having ARN AA070823041063J under Section 54 of CGST/DGST Act claiming refund of Rs. 1005341/- (IGST: Rs. 0/-, CGST: Rs. 200000/- and SGST: Rs. 805341) for the period of July, 2021 to December, 2021 on account of ITC accumulated due to "Refund of ITC on **Export of Goods & Services without Payment of Integrated Tax**".*

*2. Applicant is a registered taxpayer under the administrative jurisdiction of Ward-02.*



3. It has been checked from GST portal and found that no other refund claim for the same period has not been filed in the same category including "Any Other" category.
4. The taxpayer has filed all the relevant documents pertaining to the refund under category of Refund of ITC on Export of Goods & Services without Payment of Integrated Tax as per the circular No. 125 dated 18-11-2019 issued by CBEC.
5. The GSTR-3B of the last tax period (Sep-24) & GSTR-1 (Oct.-2024) has been filed by the taxpayer and no dues are pending against the applicant.
6. It has been checked and found that the refund amount claimed has been debited from the electronic credit ledger.
7. It has been found no ITC on capital goods have been claimed by the taxpayer in the refund application. Taxpayer has filed declaration that refund is not barred by second and third proviso to section 54(3) of CGST Act 2017.

On the examination of the refund application and documents it appeared that refund application is liable to be rejected on account of some discrepancies/ deficiencies and accordingly SCN/RFD-08 having Reference No. ZDO70924003859Z dated 20.09.2024 was issued to the taxpayer with the direction to reply to the SCN/RFD-08 within fifteen days.

Further, the taxpayer was also given an opportunity for personal hearing to explain as to why their refund claim may not be rejected, in the office of Special Commissioner II, 11<sup>th</sup> floor, Vyapar Bhawan, Department of Trade and Taxes.

It was also mentioned in the SCN/RFD-08 that if they 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. The taxpayer has been submitted LUT certificate after submission of refund claim period which is showing date of filing LUT on 26/08/2021 but refund claimed period July 21 to December 21.

**The taxpayer filed the replies to the said SCN/RFD-08 in Form of RFD-09 alongwith sporting documents. On**



**Scrutiny of sporting documents it is found that LUT submitted after filed RFD-01.**

**In light of above, the Refund Application of the taxpayer on account of Refund of ITC on Export of Goods & Services without Payment of Integrated Tax for an amount of Rs.10,05,341/- for the month of July, 2021 to December, 2021 is rejected.”**

6. Ld. Counsel for the Petitioner submits that as can be seen from the above impugned order, the only ground on which the refund has been rejected is that the LUT certificate was filed on 26<sup>th</sup> August, 2021, but the refund claimed period is prior to that i.e., July 2021 to December, 2021. Ld. Counsel further submits that this is a completely baseless ground because the exports were made between September 2021 to December, 2021 and the LUT was filed prior to the said date of first export.

7. Ms. Vaishali Gupta, Id. Panel Counsel on the other hand submits that the matter may be remanded to the adjudicating authority and a fresh hearing be given to the Petitioner.

8. The Court has considered the matter. In the opinion of this Court, exports of this nature, which are zero rated supplies, are meant as an incentive to exporters which is contemplated under the CGST Act and the Rules. Especially in cases where there are zero rated supplies, the documents which are filed along with the refund application shall, in effect, be sufficient for claiming such refunds. This position of law has been clearly stipulated under Rule 89 of the CGST Rules which states as under:

**“89. Application for refund of tax, interest, penalty, fees or any other amount.-(1)Any person, except the persons covered under notification issued under section 55,claiming refund of any tax, interest, penalty, fees or any other amount paid by him, other than refund of integrated tax paid on goods**



**exported out of India, may file an application electronically in FORM GST RFD-01 through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:**

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**(2) The application under sub-rule(1) shall be accompanied by any of the following documentary evidences in Annexure I in FORM GST RFD-01, as applicable, to establish that a refund is due to the applicant, namely:-**

*(a) the reference number of the order and a copy of the order passed by the proper officer or an appellate authority or Appellate Tribunal or court resulting in such refund or reference number of the payment of the amount specified in sub-section (6) of section 107 and sub-section (8) of section 112 claimed as refund;*

**(b) a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices, in a case where the refund is on account of export of goods,....”**

Thus, the withholding of the refund in this manner would be completely contrary to the scheme, spirit and the letter of law.

9. It is noticed by this Court that in several cases, whenever refund applications are filed, SCNs are issued, and in some manner or the other, the Department holds up the processing of refund which is completely impermissible.

10. A perusal of this case would show that in the SCN dated 5th September, 2024, various documents were sought and the same were supplied by the Petitioner in a prompt and diligent manner. This fact of the documents having been supplied has also been acknowledged in paragraph No.4 of the impugned order itself. The said paragraph reads as under:



“4. The taxpayer has filed all the relevant documents pertaining to the refund under category of Refund of ITC on Export of Goods & Services without payment of Integrated Tax as per the circular No. 125 dated 18-11-2019 issued by CBEC.”

11. Thus, a specious and untenable plea that the LUT Certificate was filed after the exports has been raised as the ground for rejection. A perusal of the LUT certificate would show that it is dated 26<sup>th</sup> August, 2021 and the exports were made during the following time period as provided in the shipping bills:

S.no	Invoice details			Shipping bill/ Bill of export details			EGM Details		BRC/FIRC details (only in case of export of service)		
	Invoice No.	Invoice Date (dd-mm-yyyy)	Invoice Value	Shipping bill Port Code	Shipping bill No	Shipping bill date (dd-mm-yyyy)	EGM Ref No.	EGM date (dd-mm-yyyy)	BIRC/FIRC Count	BIRC/FIRC No.	BIRC/FIRC Date
1	EXP213	07.09.2021	23,34,939.37	INMAA1	4550689	13.09.2021	230605	13.09.2021		UBIN0902861002555967	05.04.2022
2	EXP214	30.09.2021	30,53,400.00	INMAA1	4985745	30.09.2021	232055	3.10.2021		UBIN0902861002335276	15.11.2021
3	EXP215	11.11.2021	5,16,019.49	INDEL4	6034166	16.11.2021	359589	18.11.2021		UBIN0902861002592094	10.05.2022
4	EXP218	07.12.2021	62,628.51	INDEL4	6584192	08.12.2021	361759	11.12.2021		UBIN0902861002413920	29.12.2021
5	EXP219	07.12.2021	144355.36	INDEL4	6584192	08.12.2021	361759	11.12.2021		UBIN0902861002413920	29.12.2021



12. A perusal of the dates of the shipping bills would show that they are dated from 13<sup>th</sup> September 2021. All these documents are also clearly available with the Customs Department which are ignored and the refund has been rejected.

13. The reason given for rejecting the refund is thus, completely unsustainable.

14. Accordingly, the impugned order dated 14th November, 2024 is set aside. The refund of the Petitioner shall be processed and credited along with the statutory interest within a period of two weeks from today. If the same is not duly credited, after the expiry of 03<sup>rd</sup> September, 2025, interest @ 12%



would be liable to be paid to the Petitioner.

15. A copy of this order shall be brought to the notice of the Commissioner of Department of Trade and Taxes, GNCT, Delhi so that proper instructions are given in order to ensure that the exporters and others who are entitled to refunds are not repeatedly subjected to the hardships to obtain the refunds.

16. The present petition stands disposed of in said terms. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH**  
**JUDGE**

**SHAIL JAIN**  
**JUDGE**

**AUGUST 12, 2025/sk/ss**