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

+ **W.P.(C) 5088/2024**

MATRIX CELLULAR (INTERNATIONAL) SERVICES PVT LTD

.....Petitioner

Through: Mr. Anurag Soan, Advocate for
Petitioner.

versus

THE PRINCIPAL COMMISSIONER STATE TAX DELHI & ANR.

.....Respondents

Through: Mr. K.G. Gopalakrishnan, Ms. Nisha
Mohandas and Mr. Kunwar Raj Singh,
Advocates.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

ORDER

% **04.07.2025**

1. This hearing has been done through hybrid mode.

REVIEW PET. 358/2025 in W.P.(C) 5088/2024

2. The present review petition has been filed by the Petitioner under Section 114 of the Code of Civil Procedure, 1908, seeking review of judgment dated 20th May, 2025 passed by this Court (hereinafter, '*impugned judgment*'). *Vide* the present review petition, the Petitioner seeks interest for the period 3rd March, 2020 till 28th August, 2023.

3. The impugned judgment passed by this Court has given proper reasons as to why for the said period, interest has not been granted. The relevant paragraph is extracted below:

“10. Heard the parties. The short question is -

(i) whether the Petitioner is entitled to refund and if so, to



what amount and

(ii) whether any interest is payable if so to what extent.

A refund application is to be filed under Rule 89 of the Central Goods and Services Tax Rules, 2017(hereinafter 'CGST Rules'). As per Rule 90 of the CGST Rules, the proper officer shall within 15 days of the application, scrutinize the application and if found to be proper, issue an acknowledgement in **FORM GST RFD-02**. However, if any deficiency is found, the deficiency memo ought to be issued under **FORM GST RFD-03**. If the deficiency memo is issued, the deficiencies would have to be cured by the party concerned and in such a case, Rule 93 could be invoked by the Department.

11. In the present case, it is seen that the Petitioner inadvertently deposited the money between August, 2017 to January, 2018 and the refund application was filed on 12th April, 2018. The deficiency memo under **FORM RFD-03** was issued for the first time on 3rd March 2020, seeking the following documents:

S. No.	Description
1.	Copy of up to date returns.
2.	Copy of Electronic cash ledger showing debit of refund amount.
3.	Copy of Cancelled cheque.
4.	Declaration regarding not having been prosecuted for any offences when the amount of tax evaded exceeds to hundred and fifty lakh rupees.

12. From a perusal of the records, it is clear that from the date of filing of refund application, the mandate for scrutinizing and issuance of deficiency memos within 15 days has not been adhered to by the Department. However, after issuance of the deficiency memo on 3rd March 2020, the Petitioner withdrew the application for refund on 17th March 2020. Thereafter the case of the Petitioner is that it regularly followed up with the department but there is no written communication. The first



written communication is of 29th August 2023, when the Petitioner stated that it could not file a reply to the Deficiency Memo due to the Covid-19 pandemic. Vide this letter, the refund was once again sought by the Petitioner.

13. The entire scheme for grant of refunds has been considered by this Court in **Bansal International v. Commissioner of DGST (W.P.(C) 11629/2023, decided on 21st November, 2023)** wherein the Court has clearly held that a party would be entitled to interest on the amount of refund commencing from the date immediately after the expiry of 60 days from the date when an application has been received. The relevant portion of the judgement is extracted below:

“31. It is important to note that the rate of interest as specified in the main provision of Section 56 of the CGST Act and the proviso to Section 56 of the CGST Act is materially different. Whereas, the main provision of Section 56 of the CGST Act provides for an interest at the rate not exceeding 6% per annum, the proviso to Section 56 of the CGST Act stipulates interest at the rate not exceeding 9% per annum.

32. The learned counsel also informed this Court that the interest at the rate of 6% per annum and 9% per annum has been notified for the purposes of Section 56 of the CGST Act and the proviso to the said section, respectively. Thus, there are two separate rates of interest specified under Section 56 of the CGST Act. The interest at the rate of 6% is payable for the period commencing from a date immediately after expiry of sixty days from the date of an application under Section 54(1) of the CGST Act, however, this rate is enhanced for the period covered under the proviso to Section 56 of the CGST Act. The proviso to Section 56 of the CGST Act expressly provides that an interest at the rate of 9% per annum would be payable from the date immediately after the expiry of sixty days from the receipt of an application, which is filed as a consequent to an order passed by the Appellate Authority, Adjudicating Authority, Appellate Tribunal or a court that has attained finality. This clearly indicates that if a



person's claim for refund is a subject matter of further proceedings, which finally culminate in orders upholding the applicant's entitlement, and yet the payment is not made within a period of sixty days from an application filed pursuant to such orders, the person is required to be compensated at a higher rate of interest, of 9% per annum. This higher rate of interest would run from the date immediately after the expiry of sixty days of the filing of such an application – that is, the application filed pursuant to the orders of the appellate fora and not the first application.

33. It is clear from a plain reading of Section 56 of the CGST Act that whereas the main provision of Section 56 of the CGST Act refers to the rate of interest applicable on the amount of refund due, which remains unpaid even after sixty days from the date of application for refund; the proviso provides for an increased rate of interest for the period that commences from the date immediately after the expiry of sixty days from the date of application which is filed pursuant to the claim for refund attaining finality in appellate proceedings. Section 56 of the CGST Act, thus, works as follows. The applicant claiming a refund is entitled to interest at the rate of 6% per annum from a date immediately after the expiry of sixty days from making an application under Section 54(1) of the CGST Act. However, if a person's claim is denied (or if granted is not accepted by the Revenue) and the order of the Adjudicating Authority is carried in appeal to the Appellate Authority or to the Appellate Tribunal/High Court, which finally upholds the claim, the applicant may have to file a second application to secure the refund. If such application for refund filed by the person consequent to succeeding before the Appellate Authority, Appellate Tribunal or court, is not processed within a period of sixty days of filing the application, the applicant would be entitled to a higher rate of 9% per annum commencing from the date immediately after the expiry of sixty days of his application filed pursuant to the



appellate orders. However, this does not mean that the rate of 6% per annum is not payable for the period commencing from the date immediately after expiry of sixty days from his first application till sixty days after filing of his second application pursuant to the appellate orders. In another words, the proviso merely enhances the interest payable to a person for the period commencing from the date immediately after sixty days from the date of his application filed pursuant to its entitlement to refund claim attaining finality.”

14. The efficacy of the said scheme is contingent upon the Department adhering to the specific timelines prescribed under the Act and the Rules, which, in the present case, have evidently not been complied with. For whatever reason, the refund or acknowledgment has not taken place till date and the Department has continued to retain the amount.

15. However, even as per the counter affidavit, it is clear that the amount can no longer be retained by the Department. Therefore, in the opinion of this Court, the amount would be liable to be refunded and cannot be enjoyed by the Department in this manner.

16. Thus, the Petitioner is entitled to the refund. The only remaining question would be of interest. Even if a 60 days period is counted from the date of refund application, the Petitioner would be entitled to interest for a substantial period of time. The refund application being dated 12th April, 2018, 60 days from there would take the Petitioner to 11th June, 2018.

17. Accordingly, it is directed that the Department shall immediately by 30th May, 2025 credit the Petitioner's bank account with the sum of Rs.3,39,79,974/- along with interest @ 6% for the following periods:

- a. 11th June, 2018 till 2nd March 2020;
- b. 29th August 2023 till today i.e., 20th May, 2025.

For the intervening period from issuance of deficiency memo till the first letter post the pandemic i.e., 3rd March 2020 to 28th



August 2023, no interest would be payable, especially because of the filing of the withdrawal of the refund application by the Petitioner.

18. However it is made clear that if the Department does not credit with the said amount to the bank account of the Petitioner, interest would be liable to be paid @ 18% per annum from 1st June 2025.”

4. In the opinion of this Court, there is no error or apparent mistake on the face of the record. Therefore, the present review petition is not maintainable and hence, does not deserve to be considered on merits.

5. Accordingly, the present review petition is disposed of. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

JULY 4, 2025/da/ck