

IMPORTANT GST UPDATES



Issued in case of SBI Cards & Payment Services Ltd by Punjab High Court | Order No: CWP-1851-2022 | 14-02-2023

Ruling

The Punjab & Haryana High Court in the case of SBI Cards & Payment Services Ltd holds that interest on refund under Sec. 56 begins from the expiry of 3 months from the date of application.

Observations & Findings

The brief summary of the case is that the petitioner had paid CGST and SGST of Rs. 108 Crores approximately treating certain transactions to be intra-State sales. Later on it transpired that those transactions were inter-State transactions. Accordingly, the petitioner on this plea applied for a refund which was rejected by the concerned Authorities vide order dated 19.2.2021. Accordingly, CWP No.8108 of 2021 was filed and was allowed vide order dated 8.10.2021, vide which the respondents were directed to refund the amount of Rs.108 crores approximately which was deposited by the petitioner towards CGST and SGST along with applicable interest within a period of one month. Thereafter, vide order dated 22.12.2021, the claim of interest amount of Rs. 15,68,26,554/- on Rs.108.41 crores (as of 31.10.2021) was rejected and aggrieved against the said order dated 22.12.2021, the present writ petition has been filed by the petitioner.

In that event, the petitioner's submissions are upheld given what has been stated earlier. Section 54 and 56 of the Central Goods and Services Tax Act mandates the payment of interest from the date of application whereas the plea of the respondents about the period in which the application for payment of interest was made and the same has been processed within 60 days, hence the petitioner is not liable for the interest is not tenable as the respondents in any case, does not suffer any loss as money lain with the respondents for the continuous period of two and a half years, in fact even before the date of filing of the application for a refund under Section 56 of the Act and the time taken for a refund of the money in terms of the judgment dated 8.10.2021 is unreasonable.

The petitioner was entitled to a refund as well as interest amount vide judgment dated 8.10.2021, wherein a specific direction was issued for a refund of Rs.108 crores approximately which was deposited by the petitioner towards CGST+SGST along with applicable interest within one month. Unfortunately, this has not been done and the respondents have no justification for withholding the interest amount, which is a negligent act on the part of the respondents. The Government cannot deprive the petitioner from entitlement of the interest. Therefore, this inaction is wholly unjustified and has deprived the petitioner where the petitioner could have earned interest during this period but because of the withholding, this could not be done.

The position of law is well settled and the provisions relating to interest on delayed payment of refund have been consistently held as beneficial and non-discriminatory. 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 matters should also meet the test of the constitutionality and the respondents were not able to explain in any manner the issue of delay in their reply as raised by the petitioner and the chart indicating the delay referred to above speaks for itself.

Accordingly, the present petition is, allowed, the Impugned order dated 22.12.2021 is hereby partially quashed qua interest part vide which the claim of interest has been rejected and respondents are liable to pay applicable interest as per the writ petition, from the date of filing of the original application, i.e. 5.4.2019. The respondents are further directed to calculate the requisite amount towards the interest and the same shall be paid to the petitioner within a period of two months from the date of receipt of the certified copy of the order.