

## Electronic filing of refund application would also include manual filing – Bombay HC

4 March 2022



## Summary

The Bombay High Court (HC) has set aside the order rejecting the refund application on the ground that it was not filed electronically on the common portal. The HC has held that as per the Goods and Services Tax (GST) rules, any reference to electronic filing of refund application would include manual filing of the same. Further, the HC held that the circular would be applicable to all refund applications filed electronically but not on applications filed manually. The impugned circular cannot affect or control statutory provisions.

## Facts of the case

- The petitioner<sup>1</sup> entered into an agreement of sale and, accordingly, paid GST as per the invoice. But since loan was not sanctioned in the petitioner's favour, the agreement for sale was terminated.
- The petitioner filed for refund of such GST paid, which was rejected on the ground that the refund application was not filed electronically and was not in compliance with circular<sup>2</sup>.
- Aggrieved by the order rejecting the refund, petitioned filed the present writ petition.
- The petitioner submitted that as per provisions<sup>3</sup> he is entitled to apply for refund. Further, as per the rules<sup>4</sup> electronic filing of refund application includes manual filing, as well.

be inferred that any reference to electronic filing of application on the common portal shall include manual filing of the said application. The rule cannot be interpreted in a manner so as to defeat the intent of legislation.

- **Applicability of circular:** The circular would not be applicable on refund applications filed manually rather only to the ones filed electronically on the common portal. Therefore, the circular does not bar the petitioner from manually filing the refund application.

## Bombay HC observations and ruling<sup>5</sup>:

- **Ground for rejection of refund application:** The application has been rejected on the ground that the said application has not been filed electronically and is in accordance with circular. The application has not been rejected on the petitioner's entitlement to claim refund.
- **Electronic filing would include manual filing:** From reading of the GST rules, it can

<sup>1</sup> C.P. RAVINDRANATH MENON

<sup>2</sup> Circular dated 18th November 2019.

<sup>3</sup> Section 54 of the said CGST Act

<sup>4</sup> Rule 97A of CGST Rules, 2017

<sup>5</sup> WRIT PETITION NO. 2157 OF 2021

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**Our comments:**

The ruling provides appropriate weightage to grounds for rejection of the refund application (as per GST provisions) than to the mode of filing (manual or electronic). It demonstrates that although the GST circular provides for electronic filing of the refund application, the overriding rule to include manual filing of the refund application under electronic filing supersedes. However, on a practical basis, it is often observed that the authorities do not accept the physical submission and direct online filing of refund application.

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