

Procedure for E-Commerce Exports through Post doesn't determine eligibility for Refund of ITC on Exports, not applicable retrospectively: Delhi HC

Appeal Number: W .P. (C) 3917/2020

Date of Judgement/Order: 10/11/2020

Medical Bureau Vs Commissioner of Central Goods and Services Tax Delhi North &Ors. (Delhi High Court)

Fact of the Case

- The petitioner, Medical Bureau challenged the order passed by the Appellate Authority whereby the respondent authorities have denied refund.
- The petitioner had made exports of goods outside India and such exports are regarded as zero rated supplies under Section 16 of the Integrated Goods and Services Tax Act, 2017 on which the petitioner was entitled to refund of input tax credit under Section 54(3) of the Central Goods and Services Tax Act, 2017.
- The petitioner stated that the refund has been denied to the petitioner on the sole ground that petitioner had exported goods through Foreign Post Offices in August and September 2017, while Notification dated 04th June, 2018 read with Circular No.14/2018-Customs dated 04th June, 2018 has notified exports by post Regulations, 2018 w.e.f. 21st June, 2018 which provides for an entry to be presented to the proper officer at the Foreign Post Office of clearance.
- The petitioner contended that the new procedure for filing postal bill of exports doesn't take away the substantive right to claim refund of input tax credit in respect of zero rated supplies under the Statute.

Decision of the Case

- The division bench of Justice clarified that the Circular No.14/2018-Customs dated 04th June, 2018 is neither clarificatory nor it determines the eligibility of allowing refund of Input Tax Credit on exports. In any event, the new procedure cannot be made applicable from a retrospective date.
- Therefore, the court while setting aside the impugned orders passed by respondent authority, remanded the matter back to the Original **Adjudicating Authority i.e. Assistant Commissioner**, who in turn is directed to decide the same in accordance with law within 4 weeks.

The Delhi High Court while directing the matter back to the adjudicating authority held that the procedure for e-commerce exports through Post does not determine eligibility for refund of Input Tax Credit (ITC) on exports and the procedure can not apply retrospectively.