

GIB/TN/BNP PARIBAS/29.03.2021/HC-180

High Court Category : REFUND OF UNUTILIZED CENVAT CREDIT

State : Tamil Nadu

Order No.: GIB/TN/BNP PARIBAS/29.03.2021/HC-180

Name of Entry :
BNP PARIBAS GLOBAL SECURITIES OPERATIONS

Date : 29-03-2021

Breif Issue :

FACTS AND ISSUE OF THE CASE:

The petitioner, BNP Paribas Global Securities Operations Private Limited had filed the three refund claims for the various periods.

The three refund claims were considered by the respondent vide three separate Order-in-Originals. The 3rd refund claim filed on 30.10.2017 for the exports made during April 2017 to June 2017, the respondent has allowed the claim vide Order-in-Original.

However, the corresponding refund claims filed on 07.09.2017 and 21.09.2017, the respondent has rejected the claims vide order in Original.

The case of the petitioner is that the reasons given by allowing the refund claim for the period from April 2017 to June 2017 for a sum of Rs.1,65,14,132/- has to be adopted and therefore, the writ petitions are liable to be allowed.

It was submitted that the total value of Input Tax credit which was un-utilized was Rs.6,62,67,726/- which was not taken into GST Account by following the transfer application and therefore the petitioner was entitled to refund claim of the amount even though the petitioner could not debit the duty in the ST-3 return in view of the change in the law.

Decision of Advance Ruling Authority :

DECISION:

The refund of CENVAT credit under Rule 5 of the CENVAT Rules 2004 read with Notification No.27/2012- CE (NT) dated 18.06.2012 is a legitimate export incentives given to an exporter of service and goods. Therefore, such legitimate export incentives given to exporters of goods or service cannot be denied merely because of intervening changes.

Considering the fact that the petitioner has also not been able to utilize the credit of duty under the provisions of GST which came to be effected from 01.07.2017, legitimate export incentives cannot be denied to the petitioner - there are no merits in denying the benefit of

refund claim filed by the petitioner under Rule 5 of the CENVAT Rules, 2004 - petition allowed.