

IN THE HIGH COURT OF DELHI

WP.(C) 3917/2020

MEDICAL BUREAU

Vs

**COMMISSIONER OF CENTRAL GOODS AND SERVICES TAX DELHI NORTH AND
ORS**

Manmohan & Sanjeev Narula, JJ

Dated: July 03, 2020

Appellant Rep by: Mr Rajesh Mahna with Mr Ruchir Bhatia and Mr Ramanand Roy,
Advs.

Respondent Rep by: Mr Harpreet Singh, Sr. Standing Counsel

GST - The petitioner filed the present petition on grounds that the Revenue denied refund that was payable to the former, despite the petitioner having exported goods outside India - The petitioner claimed that such exports are to be regarded as zero rated supplies u/s 16 of the IGST Act and on which the petitioner was entitled to refund of ITC u/s 54 of the CGST Act - The Revenue claimed that that petitioner had exported goods through foreign Post Offices, 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 proper officer at the foreign Post Office of clearance - It was also canvassed that such Notification in no manner whatsoever affects supplies to be regarded as zero rated under Section 16 of the IGST Act read with Section 54 of the CGST Act.

Held - Notice be issued to the parties - Revenue's counsel given four weeks' time to file rejoinder - Matter be listed for hearing on Sept 09 2020: HC

Writ petition disposed of

JUDGEMENT

CM APPL. 14011/2020

Allowed, subject to just exceptions.

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The petition has been listed before this Bench by the Registry in view of the urgency expressed therein. The same has been heard by way of video conferencing.

By way of the present writ petition, petitioner challenges the order dated 01st June, 2020 whereby the respondents have denied refund due to the petitioner in spite of the fact that 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 Service Tax [Act, 2017](#) (for short 'IGST Act') on which the petitioner was entitled to refund of input tax credit under Section 54 of the Central Goods and Services Tax [Act, 2017](#) (for short 'CGST Act').

Learned counsel for petitioner states that refund has been denied to the petitioner on the sole ground that petitioner had exported goods through foreign Post Offices, 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 proper officer at the foreign Post Office of clearance. He submits that the said Notification in no manner whatsoever affects supplies to be regarded as zero rated under Section 16 of the IGST Act read with Section 54 of the CGST Act. He contends that the new procedure for filing postal bill of export does not take away the substantive right to claim refund of input tax credit in respect of zero rated supplies under the statute.

Issue notice.

Mr. Harpreet Singh, learned senior standing counsel accepts notice on behalf of respondent nos. 1 to 3. He states that the Commissioner of Customs arrayed in the present petition as respondent no. 4 is neither a necessary nor a proper party. Accordingly, respondent no. 4 is deleted from the array of parties. Let an amended memo of parties be filed within one week.

Mr. Harpreet Singh prays for and is permitted to file a counter affidavit within four weeks.

Rejoinder, if any, be filed within a further period of four weeks.

List on 9th September, 2020.

The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.