



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

D.B. Civil Writ Petition No. 2137/2021

M/s Triveni Electrodes, F-78, Brij Industrial Area, Bharatpur
Through Its Partner Sh. Pooran Mal Agrawal S/o Late Sh. Daulat
Ram Agrawal, R/o. A-116, Ranjeet Nagar, Bharatpur

-----Petitioner

Versus

1. Union Of India, Through Secretary, Finance Department,
Government Of India, New Delhi
2. The Chief Commissioner, Central Goods And Services Tax,
Statue Circle, C Scheme, Jaipur
3. The Commissioner, State Goods And Service Tax, Kar
Bhawan, Ambedkar Circle, Jaipur
4. The Assistant Commissioner, Rajasthan, Goods And
Services Tax Department, Circle-B, Bharatpur

-----Respondents

Connected With

D.B. Civil Writ Petition No. 2138/2021

M/s Yogesh Industries And Oil Mills, Nai Mandi, Ranjeet Nagar,
Bharatpur Through Its Partner Sh. Dinesh Agrawal S/o Sh.
Phoolchand Aged 64 Years, R/o. Ranjeet Nagar, Bharatpur

-----Petitioner

Versus

1. Union Of India, Through Secretary, Finance Department,
Government Of India, New Delhi
2. The Chief Commissioner, Central Goods And Services Tax,
Statue Circle, C Scheme, Jaipur
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Bhawan, Ambedkar Circle, Jaipur
4. The Assistant Commissioner, Rajasthan, Goods And
Services Tax Department, Circle-B, Bharatpur

-----Respondents

For Petitioner(s)	:	Mr. Pankaj Ghiya through VC
For Respondent(s)	:	Mr. R.D Rastogi, ASG through VC with Mr. Akshay Bhardwaj Mr. M.S Singhvi, AG through VC with



Mr. Siddhanth Jain
Mr. Kinshuk Jain through VC
Mr. Puneet Singhvi through VC

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI
HON'BLE MR. JUSTICE SAMEER JAIN

Order

20/01/2022

Since the facts are similar in both these petitions, we may notice from Writ Petition No. 2137/2021.

The petitioner has challenged the vires of Section 54 of the Central Goods and Services Tax Act, 2017 and Rajasthan Goods and Services Tax Act, 2017 as ultra vires to the Constitution. The petitioner has also prayed for a direction to set-aside a deficiency memo dated 04.12.2020 as annexure-A/3 to the writ petition.

The petitioner had claimed for refund of the accumulated credit in the ledger account. The competent authority on such claim issued the impugned communication dated 19.12.2020. One of the grounds proposed for rejecting the refund claim was that the same was time barred. The said authority however before passing final order issued this show cause notice and permitted the petitioner to file reply within 15 days. Accordingly, the petitioner has also filed the reply raising a contention that his refund claim is not subjected to the limitation period. Admittedly the assistant commissioner has not yet passed final order on the petitioner's refund claim.

At this stage, we may note one development, namely, that the Supreme Court in the **Union of India and others Vs. VKC Footsteps India Pvt. Ltd., 2021 SCC Online SC 706** has upheld the vires of the statutory provisions under consideration.



That being the situation, the petitioner's challenge to the statutory provisions must come to an end. However at this stage, learned counsel for the petitioner argued that the COVID related extensions would apply to time limit provisions contained in the statutes for refund also. At the stage, there is neither pleading nor corresponding prayer for declaration to this effect. We therefore refuse to go into this question in the present petition.

In view of the facts and material on record, let the assistant commissioner decide the petitioner's refund claim bearing in mind the reply of the petitioner, copy of which is produced as annexure A/4. It would be open for the petitioner to raise additional grounds in support of the refund claim by filing reply within one week from today. If any such further reply is filed, the authority shall take into consideration the same also while taking final decision.

With these observations and directions, both the petitions are disposed of.

(SAMEER JAIN),J

BRIJ MOHAN GANDHI /36-37

(AKIL KURESHI),CJ

