

IMPORTANT GST UPDATES

Issued in case of ADF Foods Pvt Ltd by Gujarat High Court
R/Special Civil Application No. 24138 of 2022 | Date: 14-09-2023

Ruling

Refund of IGST Paid on Exported Goods Being Zero-rated Supplies Admissible as Excess Drawback Repaid.

Observations & Findings

The petitioner, ADF Foods Pvt Ltd, challenges the authorities' inaction in approving refund claims for IGST paid on exported goods, specifically "Zero Rated Supplies," through Mundra Customs Port. The petitioner seeks a full refund of Rs. 2,13,543/- paid as IGST on goods exported as "Zero Rated Supplies" through Hazira Port, as per shipping bill no. 8188824 dated 23.08.2017.

Between August and October 2017, the petitioner exported goods from Mundra Customs Port and Hazira Customs Port, making payments of IGST under Section 16(3)(b) of the IGST Act. The petitioner claimed a refund of IGST paid on export goods. Details of these supplies were declared through form GSTR-1 and GSTR-3B.

In letters dated 05.09.2022 and 15.09.2022, the petitioner requested a refund of IGST for the shipping bills. They explained that an oversight by the Custom House Agent led to the selection of "A" instead of "B" suffixed with the serial number in the drawback notification, resulting in a higher drawback rate. The excess drawback due to CENVAT credit facility had been repaid with interest, justifying the petitioner's claim for IGST refund.

Referring to the Supreme Court decision in J.K. Laxmi Cement Limited v. Commercial Tax Officer, Pali (2018 (14) G.S.T.L. 497), the Division Bench held that a circular cannot contradict the statutory rule, particularly Rule 96. The circular, in this case, had no bearing on IGST refund. The petition was allowed, directing the respondents to promptly approve the IGST refund.

The issue raised in this petition mirrors one previously addressed by this Court, as per the decision in the case of Amit Cotton. Considering this, the petition is allowed, and the respondents are instructed to sanction the IGST refund for the mentioned shipping bills, along with simple interest at 6% from the date of the shipping bills to the actual refund date. The rule is made absolute, with no order as to costs.