



JUDGEMENT

Rule 96(10) of CGST Rules Declared Ultra Vires to IGST Act's Refund Provisions for Exporters

Issued By:	Kerala High Court
In Case Of:	M/S. Sance Laboratories Pvt Ltd
Order No:	WP(C) NO. 17447 OF 2023
Order Date:	10 th October 2024

FACTS & OBSERVATIONS

- The petitioners, primarily exporters, contest Rule 96(10) of the CGST Rules, arguing it exceeds the authority granted by Section 16 of the IGST Act, 2017.
- They claim the rule unjustly limits their right to claim IGST refunds on exported goods, negatively affecting their business operations.
- The case questions whether Rule 96(10) aligns with Section 16 of the IGST Act, which endorses "zero-rated supply" and tax refunds on export-related inputs.
- Petitioners argue the rule violates constitutional rights under Articles 14, 19(1)(g), and 265, deeming it "manifestly arbitrary" as per the Shayara Bano case precedent.

JUDGEMENT

- The court analyzed the overall impact of Rule 96(10) on exporters' rights to IGST refunds, focusing on the general limitations imposed by the rule rather than individual cases.
- Rule 96(10) was declared ultra vires to Section 16 of the IGST Act, as it introduced conditions that went beyond the statutory intent of promoting "zero-rated supply" with tax refunds for exporters.
- The court noted that the language in Section 16(3)(a) and (b) of the IGST Act, along with Sections 20 and 54 of the IGST and CGST Acts, did not authorize restrictions that would negate the refund rights granted under Section 16.
- Concluding that Rule 96(10) unduly limited exporters' rights, court held that these restrictions were inconsistent with the purpose of supporting exports under IGST Act.

N J JAIN & ASSOCIATES

CHARTERED ACCOUNTANTS

WWW.NJJAIN.COM

info@niteshjain.co.in

079-4002-2628