



JUDGEMENT

100% EOUs Making Zero-Rated Supplies Entitled to ITC Refund: Deemed-Export Restrictions Not Applicable

Issued By:	Gujarat High Court
In Case Of:	Shah Paperplast Industries Ltd
Order No:	RSCA NO. 18892 of 2023
Order Date:	13th Nov 2025

FACTS & OBSERVATIONS

- The petitioner, a 100% Export Oriented Unit (EOU) manufacturing and exporting tissue paper, procured raw materials on payment of GST and filed refund claims under Section 54(3) of the CGST Act, **asserting that their exports were zero-rated and made without payment of tax.**
- **The department initially granted provisional refund**, acknowledging the ITC accumulation arising from input purchases used for export.
- Subsequently, a **show cause notice was issued withdrawing the refund**. The department relied heavily on CBIC Circular 172/04/2022-GST (06.07.2022), which provides guidance on refund treatment for deemed exports.
- Authorities contended that the **petitioner's supplies should be viewed under the deemed export mechanism, and therefore the ITC arising from such transactions could not form part of the refund computation**. This reclassification became the core trigger for the dispute.

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- The High Court clarified that the petitioner exported finished goods outside India - an activity squarely covered as zero-rated supply under Section 16 of the IGST Act, not as deemed exports. **The department's attempt to recharacterise these supplies was held factually and legally incorrect.**
- The Court emphasised that **Circular 172/04/2022 applies only to deemed exports**, where the supplier pays GST and the recipient claims the refund. **Since the petitioner was making actual exports, the circular had no application.**
- Importantly, the **Court reaffirmed that circulars cannot override statutory rights**. Section 54(3) expressly permits refund of unutilised ITC where goods are exported without payment of tax. Administrative instructions cannot curtail this entitlement.
- **All orders withdrawing the provisional refund were set aside, and authorities were directed to process the refund as originally claimed.** The ruling reinforces that EOUs exporting without payment of GST are fully eligible for ITC refunds, and misapplication of deemed-export principles cannot defeat this statutory benefit.

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