GSTAT

Division Bench Court No. Court I

APL/9/LCK/2026

AJIT KUMAR MINZ ....Appellant

Versus

M/S B.L. AGRO INDUSTRIES LIMITED, DIRECTOR, C 86 RAJENDRA NAGAR ......Respondent

BAREILLY UPBAR 243001

Counsel for Appellant	**Counsel for Respondent**
MRS. NIDHI SHARMA, SUPERINTENDENT, CGST	MR KAPIL VAISH, CA

Hon'ble Santosh Kumar Srivastava, Member(Judicial)

Hon'ble Arvind Kumar, Member (Technical)

ORDER

CGST Department (hereinafter referred to as the "appellant"), has preferred five appeals challenging orders-in-appeal issued by the Additional Commissioner, CGST (Appeals), Noida, which withheld the rejection orders issued by the Assistant Commissioner, CGST Division-I, Bareilly, for the refund claims filed for unutilized Input Tax Credit (ITC) accumulated due to inverted duty structure as detailed below:

TABLE-1

S.NO	Appeal No & date	OIO (RFD-06) Rejection/Sanction order	Refund amount Period (Rs)	Period	Refund claim ARN No and date
1.	2026054101000004 dated 14-01-2026	ZD09 12241639064 dt 16-12-2024	1 ,90,00,000	Oct 19	AA090924 1605017 DT 21-09-2024
2.	2026054101000023 dated 15-01-2026	ZD09 122416415 8 A dt. 16-12-2024	1,70,00,00	Dec 19	AA090924203522B dt 28-09-2024
3.	2026054101000020 dated 15-01-2026	ZD0912242124755J dt. 19-12-2024	85,00.000	Jan 20	AA09 1024085710D dt 15-10-2024
4.	2026054101000021 dated 15-01-2026	ZD0901253460240 dt3 1-01-25	36,00,000	July - Aug 20	AA0912240) 605665 dt 12-12-2024
5.	2026054101000022 dated 15-01-2026	ZD090125345781B dt 31-01-2025	90:00,000	Sep 20	AA09 102240719309 dt 14-12-2024

These claims, covering periods from April 2019 to September 2020.

Since the issue, factual circumstances, and grounds of appeal are identical across all five cases, and they involve the same appellant, this common order addresses all appeals.

1 .0 Question of law

1.1 The claims filed based on the amended Rule 89(5) vide Notification No. 14/2022-CT dated 05-07-2022. As per the Circular No. 181/13/2022-GST dated 10-11-2022 the amendment is prospective in nature or retrospective.

1.2 Restrictions imposed by Notification No. 09/2022-Central Tax (Rate) and limitation under Section 54 of the CGST Act, 2017.

2 .0 Brief Facts of the Case

2.1 M/s B.L. Agro Industries Ltd, B-3 1, Road No. 2, Parsakhera, Industrial Area, Bareilly, Uttar Pradesh (hereinafter referred to as "respondent") is engaged in the manufacture and supply of various edible oils, classifiable under Chapter 15 of the Customs Tariff Act, 1962, which includes products like refined edible oils. The respondent has been claiming refund of accumulated credit due to inverted structure under the provisions of section 54(3) of CGST Act, 2017.

2.2 Initially the proper officer rejected the refund claims by issuing deficiency memos. The primary ground for rejection was that the claims were filed manually rather than electronically via Form GST RFD-01 on the GST common portal.

2.3 The respondent filed appeals against the rejection orders and the appellate authority remanded the cases to the proper officer with the directions that manual refund application filed by the respondent should be considered for decisions on merits after observing the principles of natural justice. Following the remand order, the respondent re-filed the five refund claims, as detailed in Table-I above, categorizing them as claims submitted "on account of Order in Appeal."

2.4 In the remand proceedings, the proper officer issued five show cause notices (SCNs) in form RFD-08 proposing to reject all file re-filed refund claims on the grounds as discussed in para 1.5 of impugned order.

2.5 In consequent to the SCNs, the proper officer issued rejection orders against all the file refund claims, denying the differential amounts sought under the amended formula, effectively affirming the SCNs' arguments on prospective application, refund restrictions, time-bar and misclassification.

2.6 The respondent again filed second time appeals before First Appellate Authority.

2.7 The appellate authority vide Order-in-appeal dated 03.07.2025 allowed the appeals filed before appellate authority with consequential benefits, set aside rejection orders issued by proper officer and directed to sanction the refunds after arithmetical verification of the claimed amounts, based on the following observation:-^

i. The five appeals relate to refund of unutilised ITC under Section 54(3) of the CGST Act, 2017 on account of inverted duty structure. The appeals were filed within the prescribed period and, being refund matters without any demand of tax or duty, no pre-deposit under Section 107(6) is required.

ii. The respondent is engaged in manufacture of edible oils and had been claiming refund under Section 54 (3) read with Rule 89(5). Notification No. 14/2022-Central Tax dated 05.07.2022 substituted the formula under Rule 89(5) by incorporating input-service ITC in the computation. The respondent filed differential refund claims after 05.07.2022.

iii. Since the refund applications in the present appeals were filed after 05.07.2022, the substituted formula under Rule 89(5) is applicable to such applications in terms of the clarification contained in Circular No. 181/13/2022-GST dated 10.11.2022. The relevant consideration is the date of filing of the refund application, subject to verification of the eligibility and quantum of ITC, as clarified by the circular -

S. No.	Issue	Clarification
1.	Whether the formula prescribed under sub-rule (5) of rule 89 of the CGST Rules, 2017 for calculation of refund of unutilised input tax credit on account of inverted duty structure, as amended vide Notification No. 14/2022-Central Tax dated 05.07.2022, will apply only to the refund applications filed on or after 05.07.2022, or whether the same will also apply in respect of the refund	Vide Notification No. 14/2022-Central Tax dated 05.07.2022, amendment has been made in sub-rule (5) of rule 89 of CGST Rules, 2017, modifying the formula prescribed therein. The said amendment is not clarificatory in nature and is applicable prospectively with effect from 05.07.2022. Accordingly, it is clarified that the said amended formula under sub-rule (5) of rule

	applications filed before 05.07.2022 and pending with the proper officer as on 05.07.2022?	89 of the CGST Rules, 2017 for calculation of refund of input tax credit on account of inverted duty structure would be applicable in respect of refund applications filed on or after 05.07.2022. The refund applications filed before 05.07.2022 will be dealt as per the formula as it existed before the amendment made vide Notification No. 14/2022-Central Tax dated 05.07.2022

iv. The respondent appellant has also relied upon an earlier refund claim filed on 07.07.2022 and sanctioned using the amended formula, as well as the decisions in YKC Footsteps and Ascent Meditech. These authorities have been relied upon to support the applicability of the substituted formula to refund applications filed after 05.07.2022.

v. With regard to Notification No. 09/2022-Central Tax (Rate), effective from 18.07.2022, the respondent contended that the restriction introduced thereby cannot be extended through Circular No. 181/13/2022-GST so as to override the statutory provisions of Section 54(3). The legal position laid down by the Hon'ble Supreme Court in Raton Melting & Wire Industries is that a departmental circular cannot override the statutory provisions.

vi. Accordingly, the statutory provisions of the CGST Act have to prevail over any contrary administrative clarification. The restriction introduced with effect from 18.07.2022 cannot, merely through the circular, be extended to deny refund in respect of eligible ITC accumulated prior to the effective date, subject to the applicability of the relevant notification.

vii. As regards the objection concerning certain items shown in the service annexure, the mere fact that some entries may actually be inputs instead of input services cannot be a ground for outright rejection of the refund claim. Such entries are required to be correctly classified and the eligible refund recomputed accordingly, after verification of the underlying ITC.

viii. The limitation objection in respect of the claims for October 2019, December 2019, January 2020, July-August 2020 and September 2020 is also not sustainable. Notification No. 13/2022-Central Tax dated 05.07.2022 excludes the period from 01.03.2020 to 28.02.2022 for computation from limitation due to COVID-19 disruptions. After giving effect to such exclusion, the aforesaid refund claims fall within the prescribed period under Section 54.~

The refund claims cannot be rejected merely on the grounds of applicability of the amended Rule 89(5) formula, classification of certain entries in the service annexure, or limitation without considering the applicable statutory provisions and notifications.

Being aggrieved by the said Order-in-Appeal, the Department has preferred the present second appeal before the Tribunal, mainly challenging the applicability of the amended Rule 89(5), the admissibility of supplementary refund claims pertaining to periods for which refund claims had already been dealt with, and the findings of the First Appellate Authority regarding the restrictions imposed by Notification No. 09/2022-Central Tax (Rate) and limitation under Section 54 of the CGST Act, 2017.

3. GROUNDS OF APPEAL

The appellant has mainly challenged the rejection of the refund claims on the following grounds:

3.1 The appellant submitted that the Order-in-Appeal dated 03.07.2025 passed by the learned First Appellate Authority is not legal and proper and is liable to be set aside.

3.2 The appellant submitted that the learned First Appellate Authority erred in allowing supplementary refund claims pertaining to the same tax periods for which refund claims had already been filed and disposed of under Section 54(3) of the CGST Act, 2017 read with Rule 89(5) of the CGST Rules, 2017.

3.3 The appellant submitted that the amended formula prescribed under Notification No. 14/2022-Central Tax dated 05.07.2022 is prospective in nature and cannot be applied to the supplementary refund claims relating to the earlier refund applications. The appellant further relied upon Circular No. 181/13/2022-GST dated 10.11.2022 in support of its contention.

3.4 The appellant submitted that the learned First Appellate Authority erred in allowing differential refund for the same tax periods after the original refund claims had already been adjudicated, without properly considering the statutory provisions governing refund under Section 54 of the CGST Act, 2017 and Rule 89 of the CGST Rules, 2017.

3.5 The appellant further submitted that Notification No. 09/2022-Central Tax (Rate) dated 18.07.2022 restricted the refund of unutilized input tax credit in respect of specified goods falling under Chapters 15 and 27 of the Customs Tariff Act, 1975.

3.6 The appellant submitted that the learned First Appellate Authority erred in allowing refund in respect of claims filed after 18.07.2022, despite the goods covered by the claims falling under Chapter 15 and being subject to the restriction imposed by the aforesaid notification.

3.7 The Appellant submitted that the service annexure furnished along with certain refund claims contained items which were not services and that the corresponding input tax credit had already been considered while sanctioning the earlier refund claims. Therefore, the same could not be claimed again by way of supplementary refund.

3.8 The appellant submitted that the mere fact that the refund claims were filed within the prescribed period of limitation does not, by itself, make such claims admissible, as the substantive eligibility and other statutory conditions governing refund are also required to be satisfied.

3.9 The Appellant has relied in his argument upon the citation: Ruchisoya Industries Ltd. Submitted that the findings recorded in the impugned Order-in-Appeal are contrary to the provisions of the CGST Act, 2017, the CGST Rules, 2017, the relevant notifications and circulars, and the material available on record. Accordingly, the impugned Order-in-Appeal is liable to be set aside and the orders passed by the adjudicating authority are liable to be restored.

4.1 SUBMISSION OF THE RESPONDENT

4.1 The Respondent submitted that the amended formula under Rule 89(5) should be applied to the refund applications filed after 05.07.2022. It was submitted that the amendment was made to include input service ITC while calculating the refund and that the same view had been taken by various judicial authorities. The Respondent relied upon, inter alia, the decisions in Renuka Sugar Ltd. and Ascent Meditech Ltd. and also relied upon the order of the Hon'ble Supreme Court dismissing the Department's SLP against the decision in Ascent Meditech Ltd.

4.2 The Respondent further submitted that the restriction under Notification No. 09/2022-Central Tax (Rate) could not be applied to ITC accumulated before 18.07.2022. It was argued that the right to claim refund is governed by Section 54 of the CGST Act, 2017 and an administrative circular cannot take away a benefit otherwise available under the Act.

4.3 It was also submitted that certain items had been included in the service annexure while claiming the differential amount. According to the appellant, if such items were treated as inputs instead of input services, the amount of eligible refund would not decrease and, therefore, the claim could not be rejected only on this ground.

4.4 On limitation, the Respondent submitted that Notification No. 13/2022-Central Tax dated 05.07.2022 excluded the period from 01.03.2020 to 28.02.2022 for computation of the limitation period under Section 54. Therefore, the refund applications were within the prescribed period.

4.5 The Respondent submitted that there is no specific bar under Section 54 of the CGST Act, 2017 or Rule 89 of the CGST Rules, 2017 against filing a supplementary/differential refund claim, provided the same is filed within the prescribed limitation period. Accordingly, the mere filing of an earlier refund claim cannot debar the Respondent from claiming the differential amount legally admissible.

4.6 The Respondent submitted that the refund claims relate to accumulated ITC arising on account of inverted tax structure and that, pursuant to Notification No. 14/2022-Central Tax dated 05.07.2022, the amended formula under Rule 89(5) was applicable for determination of the eligible refund.

4.7 It was further submitted that the amendment made in Rule 89(5) was curative in nature and intended to remove the anomaly in the earlier formula. In support, reliance was placed upon the decisions in Indian Tobacco Association v. Government of India, Shree Lakshmi Foundry v. Commissioner of Central Excise and Doosan Infracore India Pvt. Ltd. v. Assistant Commissioner of GST & Central Excise.

4.8 The Respondent also relied upon the decision of the Hon'ble Gujarat High Court in Ascent Meditech Ltd. v. Union of India, wherein the amendment to Rule 89(5) was held to be curative and retrospective in effect. It was submitted that the SLP filed against the said decision was dismissed by the Hon'ble Supreme Court.

4.9 The Respondent submitted that Circular No. 181/13/2022-GST dated 10.11.2022 cannot restrict the benefit otherwise available under the statutory provisions and judicial interpretation of Rule 89(5). It was therefore contended that the refund could not be rejected merely on the basis of the said circular.

4.10 It was further submitted that refund under the amended formula had already been sanctioned by the jurisdictional authority for other relevant periods and no appeal had been filed against such sanction. Therefore, the Department ought not to take a contrary view in respect of the present claim in the absence of any material change in facts or law.

4.11 With regard to the decision in Ruchisoya Industries Ltd., the Respondent submitted that the said decision is distinguishable on facts and is not applicable to the present case in view of the subsequent amendment to Rule 89(5) and the judicial pronouncements cited above.

5.0 FINDINGS

5.1 We have carefully considered the facts of the case, the impugned Orders-in-Original, the grounds of appeal, the submissions of the appellant and Respondent the findings recorded by the First Appellate Authority.

5.2 The main issue is whether the refund claims filed after 05.07.2022 are eligible to be considered under the amended formula prescribed under Rule 89(5) of the CGST Rules, 2017. The First Appellate Authority has recorded that all the refund applications in the present case were filed after 05.07.2022.

5.3 The First Appellate Authority relied upon the decisions in Belapur Sugar & Allied Industries Ltd. v. Collector of Central Excise, 1999 (108) E.L.T. 9 (S.C.), and Commissioner of Customs, Bangalore v. Central Manufacturing Technology Institute, 2002 (142) E.L.T. 336 (Kar.), regarding the applicability of substituted provisions.

Hon'ble Apex Court in BELAPUR Sugar & Allied INDUS.LTD. Versus COLLR.OF C.EX... AURANGABAD reported in 1999 (108) E.L.T. 9 (S.C.) held:-^

"Sugar-Incentive rebate for higher production-Notification No 132/82-C.E dt 21-04-1982 as amended by Notification No 193/82-C.E dated 11-06-1982-Objective of the amending Notification being to give incentive for increasing the production of sugar during the lean period (May- September), retrospective effect to be given to the amending notification issued on 11-06-1982 cannot confer benefit for the earlier period 1st May 1982 to 10th June 1982 not acceptable as it defeats the very object of the said notification-Tribunal order reversed-Item 1 of the erstwhile Central Excise Tariff-Section 5. A(l) of Central Excise Act 1944".~

Similarly, in 2002(142) E.L.T. 336 (Knr.) COMMISSIONER OF CUS. BANGALORE Versus CENTRAL MANUFACTURING TECHNOLOGY INSTITUTE the HIGH COURT OF KARNATAKA AT BANGALORE has laid down the following principle:-^

"Exemption Notification - Amendment thereto when retrospective-Notification being clarificatory in nature amending earlier notifications and substituting words 'Spare parts'with words 'Computer Software' rightly held by Tribunal to be retrospective in nature Consequently, benefit of the Notification rightly granted by CEGAT to respondent assessee - No question of law arises order of CEGAT for reference to High Court- Section 130 A (1) of customs Act, 1962.~

Further, in Ascent Meditech Ltd., reported in 2025 (93) G.S.T.L. 85 (Guj.), the Hon'ble Gujarat High Court held that the amendment made by Notification No. 14/2022-Central Tax in Rule 89(5) is curative and clarificatory in nature and is applicable retrospectively to refund or rectification applications filed within the period prescribed under Section 54(1) of the CGST Act. The SLP filed by the Department against the said decision was dismissed by the Hon'ble Supreme Court on 28.03.2025.

In the case of Ascent Meditech Ltd. Reported in 2025 (93) G.S.T.L (Guj), the petitioner had been claiming refund of unutilized ITC u/s 54 (3) of CGST Act 2017. On amendment in fonnula vide notification no 14/2022, they filed application for rectification of refund claim. However, the department had denied the claim on the ground that amendment is not clarificatory in nature and cannot be applied to the refund claims for the period prior to 05-07-2022. The hon'ble High Court in para 48 held as under.-^

"In view of the foregoing reasons, the impugned order dated 24-8-2023 is hereby quashed and set aside. The Circular No. 181/13/22, dated 10-11-2022 so far as it clarifies that the amendment is not clarificatory in nature is quashed and set aside and it is held that the Notification No. 14/2022 is applicable retrospectively as the amendment brought in Rule 89(5) of the Rules is curative and clarificatory in nature and the same would be applicable retrospectively to the refund or rectification applications filed within two years as per the time period prescribed under Section 54(1) of the Act. Rule is made absolute to the aforesaid extent. "~

5.4 The First Appellate Authority also relied upon the judgment of the Hon'ble Supreme Court in Commissioner of Central Excise, Bolpur v. Ratan Melting & Wire Industries, wherein it was held that a circular cannot prevail over the statutory7 provisions. Therefore, where the provisions of the Act and the circular are found to be inconsistent, the provisions of the Act would prevail.

5.6 We find in the light of below decisions that there is no restriction in filling supplementary refund claim.

Hon'ble Supreme Court in its order dt. 28.3.2025 in SLP (C) No. 8134/2025 filed against the decision of Hon'ble Gujarat High Court In Ascent Meditech Ltd. & Others referred supra dismissed Department's SLP. The dismissal of the SLP upholds the HC's view that the amendment was curative and clarificatory in nature and should be applied retrospectively to refund or rectification applications filed within two years as per the time period prescribed under section 54(1).

In the case of Renuka Sugar Ltd. (2023 (78) GSTL, 324, The Hon 'ble High Court of Gujrat at Ahmadabad Petitioner-sugar manufacturer and exporter erroneously lodged claims for lower amount than was legally due to him as refund of unutilized ITC due to inadvertent arithmetical error of employee of petitioner Supplementary refund claims for left out amount of refund filed by petitioner on Petitioner having already filed refund realizing error within statutory period application under Column 7(c) of Form-GST- RFD-01A, i.e., 'accumulated ITC category at first point of time, for same month and same period, another/supplementary application for refund of differential amount of refund could not be filed on portal -Therefore, petitioner having no option but to upload supplementary refund claim under 'any other' category for refund of left out amount due to an arithmetical error - Said refund claim of petitioner could not be rejected out rightly merely on technicality when substantive conditions were satisfied without scrutiny by respondent-authority in accordance with law Respondents were directed to allow petitioner to furnish manually refund applications for refund of left out amount Goods and Services Tax Act, 2017 - Section 54 of Gujarat Goods and Services Tax Act, 2017-Section 16 of Integrated Goods and Services Tax Act, 2017 Rule 89 of Central Goods and Services Tax Rules, 2017 .

5.7 Thus, on overall consideration of the matter, We find that the First Appellate Authority has examined all the relevant issues and has given reasons for allowing the refund claims. The findings recorded in the First Appeal Order are based on the provisions of the CGST Act/Rules and the judicial decisions referred to therein. We, therefore, find no sufficient ground to take a different view from the findings recorded by the First Appellate Authority.

ORDER

i. For the facts and reason discussed above, the order dated 03.07.2025 passed by the First Appellate Authority is upheld.

ii. Accordingly, all five appeals [2026054101000004 dated 14-01-2026, 2026054101000023 dated 15-01-2026, 2026054101000020 dated 15-01-2022, 2026054101000021 dated 15-01-2026, 2026054101000022 dated 15-01-2026] filed by CGST department are rejected.

(Arvind Kumar) (Santosh Kumar Srivastava)

Date: 17.09.2026