

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO.5982 of 2023

M/S JYOTI AGRO

Versus

DEPUTY COMMISSIONER OF STATE TAX & ANR.

Appearance:

MR GAURANG SHAH, FOR MR.AVINASH PODDAR(9761) for the Petitioner(s) No. 1

MS ANCHAL A PODDAR(13386) for the Petitioner(s) No. 1

MS SHRUNJAL SHAH, AGP for the Respondent(s) No. 1,2

CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA

and

HONOURABLE MR. JUSTICE PRANAV TRIVEDI

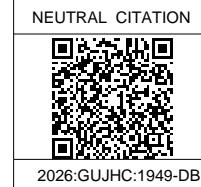
Date : 08/01/2026

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. **RULE.** Learned Assistant Government Pleader Ms. Shrunjal Shah, waives service of notice of Rule on behalf of the respondents.
2. Since the issue is squarely covered by the judgment dated 13.07.2023 passed by the Coordinate Bench of this Court in Special Civil Application No. 22339 of 2022, the present writ petition is taken up for final hearing and is decided by this order.
3. The present writ petition has been filed seeking the following prayers : -

"26. (a) To issue writ of mandamus and/or any other appropriate writ(s) by directing Respondent Authorities to refund IGST amounting to Rs. 25,09,124/- occurred due to zero rated supply made which are marked at Annexure-K and allow the refund application in form GST RFD-01 under "Any other category" and also



directing Respondent Authorities to pay interest @ 9% per annum from the date of filling of 1st refund application dated 24.06.2022 to the actual disbursement of amount of refund.

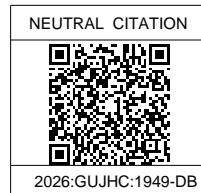
(b) Pending the admission, hearing and final disposal of this petition, to grant ad-interim relief to disburse the refund on a provisional basis i.e. 90% of refund amount claimed as per provision of section 54(6) of the CGST Act/GGST Act.

(c) To provide any other order/writ/direction as the Hon'ble Court deems appropriate in the present case;

(d) To award Costs of and incidental to this application be paid by the Respondents"

4. The brief facts, leading to filing of the present writ petition, are that on 24.06.2022, the petitioner filed a refund application in Form GST RFD-01 under Section 54(3) of the Central Goods and Services Tax Act, 2017 (for short, "the CGST Act") for refund of accumulated Input Tax Credit (ITC) for the period from October, 2021 to May, 2022. At the time of filing of the refund application, the petitioner duly complied with the guidelines of Circular No. 125/44/2019-GST dated 18.11.2019, except that the shipping bills could not be uploaded on the GST portal due to size constraints on the portal. It is the case of the petitioner that their consultant visited the respondent No. 02 for submission of hard copies of the shipping bills, as the same could not be uploaded on the GST portal due to size constraints and restrictions on the portal. However, the respondent No.2 refused to accept the hard copies of the shipping bills.

5. On 27.07.2022, the petitioner received a show cause notice in Form GST RFD-08 from the respondent No.2 for the period from October, 2021 to May, 2022, wherein the

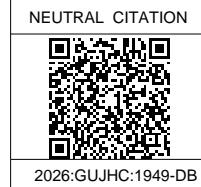


petitioner was directed to provide proper documents as per Circular No. 125/44/2019-GST dated 18.11.2019 and also to provide invoice and details of Freight on Board (FOB) price.

6. On 12.08.2022, the petitioner, in response to the show cause notice in Form GST RFD-08, filed a reply in Form GST RFD-09, wherein the petitioner submitted the required shipping bills electronically for the period from October, 2021 to May, 2022.

7. On 04.09.2022, the respondent No.2 issued a rejection order in Form GST RFD-06, wherein it was contended that the petitioner had not properly signed the undertaking/declaration and, therefore, had not complied with Circular No. 125/44/2019-GST dated 18.11.2019 for the period from October, 2021 to May, 2022. Since the petitioner chose not to file an appeal under Section 107 of the CGST Act before the first appellate authority against the rejection order in Form GST RFD-06, the petitioner filed an application in Form GST PMT-03 on 14.11.2022 for re-credit of the amount debited from the electronic credit ledger. Since the refund application had been rejected through Form GST RFD-06 and the refund amount was re-credited through Form GST PMT-03 into the electronic credit ledger, the petitioner again attempted to file a refund application for the period from October, 2021 to May, 2022 for refund of accumulated ITC. However, the GST portal did not allow filing of the application and displayed an error stating that the application for the said period had already been filed.

8. On 18.11.2022, since the credit remained blocked, the petitioner raised a grievance by email to helpdesk@gst.gov.in,



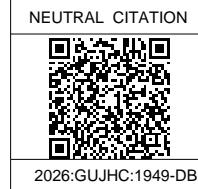
requesting a solution for the error displayed on the GST portal while attempting to file a fresh refund application for the period from October, 2021 to May, 2022. In response to the grievance, the petitioner received a reply dated 22.11.2022 from the GST Helpdesk, wherein it was stated that a refund application for the same period cannot be filed again and that a new refund application can be filed only for the period for which a NIL refund application was filed.

9. On 25.11.2022, the petitioner again raised a grievance by email to helpdesk@gst.gov.in, seeking a solution for the error shown on the GST portal while attempting to file a fresh refund application for the period from October, 2021 to May, 2022.

10. On 05.12.2022, in response to the grievance, the petitioner received a reply from the GST Helpdesk reiterating that a refund application for the same period cannot be filed again and that a new refund application can be filed only for the period for which a NIL refund application was filed.

11. On 02.01.2023, the petitioner filed a fresh refund application in Form GST RFD-01 under the category "Any Other" for the period from October, 2021 to May, 2022. The petitioner further submitted a letter dated 30.12.2022 along with the refund application dated 02.01.2023, enclosing relevant documents in support of the refund claim.

12. On 19.01.2023, the respondent No.02 issued a deficiency memo in Form GST RFD-03, wherein it was contended that the petitioner had not filed the refund application as per Rule 89(5) of the Central Goods and Service Tax Rules, 2017 (for short,



“CGST Rules”) for the period from October, 2021 to May, 2022 and that the refund amount had not been debited from the electronic credit ledger.

13. At this stage, we may refer to the decision dated 13.07.2023 of the Coordinate Bench of this Court in the case of Messrs Shree Renuka Sugar Ltd. vs. State of Gujarat, wherein the Coordinate Bench has held thus:—

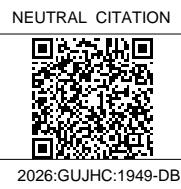
“14. Keeping in view the aforesaid decisions, it is settled law that the benefit which otherwise a person is entitled to once the substantive conditions are satisfied cannot be denied due to a technical error or lacunae in the electronic system. As discussed hereinabove, the petitioner has no option but to upload the supplementary application under “any other” category for the refund of the left out amount, which was due to an arithmetical error committed by the employee of the petitioner. We are of the view that the said claim of the petitioner for refund of the left out amount of Rs.10,20,28,733/- cannot be rejected outright merely on technicality and that too when the substantive conditions are satisfied without scrutiny by the respondent in accordance with law. Thus, the petition deserves to be allowed.”

14. Learned advocate Mr.Poddar, has pointed out the contents of the affidavit dated 25.02.2025 showing the amount of Rs.25,09,124/- which has been reversed to the form GST DRC-03 by the petitioner.

15. We may incorporate the relevant averments of the affidavit thus:-

“2. That, the refund application for the amount of ₹ 25.09.124 (Rupees Twenty Five Lakhs Nine Thousand One Hundred Twenty-Four Only), for the period starting from Oct, 2021 to May, 2022 were filed and got rejected and not allowed thereafter due to some technical glitches of the GSTN Portal. The details of the refund applications is as under:

3. That I, hereby, declare and affirm that pursuant to the order dated 12.02.2025 of this Hon'ble Court, we have duly reversed the credit



availed by the petitioner, with the request to the authorities, to process the refund claimed on the goods exported by the petitioner from DTA.

4. *That the amount of ₹25,09,124 (Rupees Twenty Five Lakhs Nine Thousand One Hundred Twenty-Four Only), has been reversed through Form GST DRC-03.*

5. *That I undertake to abide by any further directions issued by this Hon'ble Court in relation to this matter and to provide any additional information or documentation deemed necessary."*

16. Under the circumstances, in light of the aforesaid decision and upon considering the averments made in the affidavit, the present writ petition is allowed. The respondents are directed to act accordingly, in view of the averments made in the affidavit filed by the petitioner, after verification of the documents.

17. At this stage, learned Assistant Government Pleader Ms. Shrunjal Shah, has submitted that the petitioner may be directed to file a fresh application, either electronically or manually, for verification of the refund claim, so that interest can be calculated from the date of such fresh application.

18. Learned advocate Mr. Poddar has no objection to the said submission and has stated that the petitioner shall file a fresh application either in manual or electronic mode.

19. The respondents shall accordingly undertake the necessary exercise and pass an appropriate order within a period of six weeks from the date of receipt of this order. Rule is made absolute.



20. It goes without saying that the application shall be decided on merits, without raising any objection on the ground of limitation.

Sd/-
(A. S. SUPEHIA, J)

Sd/-
(PRANAV TRIVEDI, J)

MAHESH/35