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Court No. Court I

APL/26/LCK/2026

AJIT KUMAR MINZ .....**Appellant**

Versus

M/S B.L. AGRO INDUSTRIES LIMITED, DIRECTOR, C 86 RAJENDRA NAGAR BAREILLY UPBAR 243001

.....**Respondent**

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:

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Table-I

Sl. No.	Appeal filing No & Date	Period of Refund	Amount	OIO No. and date.	Date of filing of refund claim
1.	2026054101000084 Dated 22-01-2026	Sept, 2018	18.00 Lacs	16/Ref/AC/BLY-1/2023-24 dt. 30.04.2024	25.10.2023
2.	2026054101000085 Dated 22-01-2026	Nov, 2018	87.00 Lacs	17/Ref/AC/BLY-1/2024-25 dt. 01.05.2024	11.11.2023
3.	2026054101000086 Dated 22-01-2026	Dec, 2018	115.00 Lacs	18/Ref/AC/BLY-1/2024-25 dt. 02.05.2024	15.01.2024
4.	2026054101000087 Dated 22-01-2026	Jan.2019	75.00 Lacs	dt. 20.05.2024 22/Ref/AC/BLY-1/2024-25	03.02.2024
5.	2026054101000088 Dated 22-01-2026	March, 2019	75.00 Lacs	23/Ref/AC/BLY-1/2024-25 dt. 20.05.2024	08.02.2024

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.

2. Question of law

2.1 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.

2.2 Supplementary/refund claims could be rejected merely because earlier refund claims for the same periods had already been filed.

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3. Brief Facts of the Case

3.1 The respondent is engaged in business of manufacturing and supply of various types of edible oil which are classifiable under chapter 15 of Custom Tariff 1962. The respondent have been claiming refund of accumulated credit due to inverted structure under the provisions of section 54(3) of CGST Act, 2017 and formula specified in terms of Rule 89(5) of CGST Act, 2017.

3.2 However, subsequently, vide Central Tax Notification no. 14/2022- CT dt 05-07-2022 the formula for computation of refund on inverted rated structure was substituted.

3.3 The main difference made in the formula for computation of refund by such substitution has been that vide Central Tax Notification number 14/2022 dt. 05-07-2022, ITC availed on invoices for services has also become eligible for the purposes of computing the refund. Accordingly, consequent to the said amendment in the formula for computation of refund, respondent had filed the following 05 (five) refund claims for the differential amount of refund, as tabulated below:

TABLE-2

Sl. No.	Refund claim ARN No. and date	Amount for which the refund claim was filed in Rs.	Remarks
1.	AA0910231597255 dated 25.10.2023	18,00,000	-
2.	AA0911230555031 dated 11.11.2023	87,00,000	-
3.	AA090124084199Z dated 15.01.2024	1,15,00,000	-
4.	AA090224017562H dated 03.02.2024	75,00,000	-
5.	AA090224069060J dated 08.02.2024	75,00,000	-

3.4 The proper officer returned the five refund claims by issuing separate deficiency memos. The respondent preferred five appeals before the Additional Commissioner, CGST (Appeals), Noida. The appellate authority, by a common Order-in-Appeal dated 30.08.2023, remanded all five matters to the proper officer

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with directions to pass speaking orders after observing the principles of natural justice and deciding the claims on merits.

3.5 Pursuant to the remand order, the respondent re-filed the five refund claims under the category "On account of Order in Appeal." The adjudicating authority issued separate show cause notices proposing rejection of the claims mainly on the grounds that:

(i) refund claims for the respective periods had already been filed and the common portal did not permit re-filing under the same category;

(ii) Circular No. 181/13/2022 clarified that the amendment introduced by Notification No. 14/2022-Central Tax dated 05.07.2022 was prospective;

(iii) ITC relating to commission services was allegedly inadmissible;

(iv) ITC relating to vehicle maintenance was restricted under Section 17(5) of the CGST Act.

3.6 The proper officer again rejected all the refund claims on the grounds mentioned in the show cause notices as detailed supra, through separate orders. The respondent again filed second time appeal before the First Appellate Authority.

3.7 The first appellate authority, in their observation stated that the respondent, engaged in the manufacture and supply of edible oil, were entitled to claim refund under the inverted duty structure. The Notification No. 14/2022-Central Tax dated 05.07.2022, which substituted Rule 89(5) to include ITC on input services in the refund formula, was applicable to all refund applications filed after 05.07.2022, irrespective of the period in which the ITC had accumulated. Since all the present refund claims were filed after 05.07.2022, the amended formula was applicable.

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3.8 The first appellate authority stated that there was no legal bar on filing a supplementary refund claim, particularly where the original claim was filed as NIL and the additional claim arose due to the substituted refund formula. In view of Rule 97A of the CGST Rules, 2017, the refund applications could also be filed manually where the GST portal did not permit filing under the appropriate category and concluded that the supplementary refund claim could not be rejected merely on procedural or technological grounds.

3.9 Relying upon the decision of the Gujarat High Court in Renuka Sugar Ltd., the first appellate authority stated that a substantive refund benefit could not be denied merely because of a technical limitation of the GST portal, where the substantive conditions for refund were fulfilled. Accordingly, the claim for differential refund was held to be maintainable.

3.10 Regarding ITC on commission charged by M/s Bareilly Logistic Pvt. Ltd., the first appellate authority stated that the commission was connected with transportation services arranged from other transporters and was used in the course or furtherance of the appellants' business. Therefore, the GST paid on such commission was held to be eligible ITC under Section 16 of the CGST Act, 2017, and the refund could not be rejected on this ground.

3.11 For the ITC relating to vehicle maintenance, the first appellate authority stated that even after excluding such ITC, the eligible refund amount remained higher than the amount claimed. Hence, this issue had no effect on the quantum of refund claimed.

3.12 Thus, the first appellate authority in their decision held that the amended Rule 89(5) formula was applicable to refund claims filed after 05.07.2022, supplementary/manual filing could not be rejected on technical grounds, the disputed logistics commission qualified for ITC, and the vehicle-maintenance ITC issue did not affect the refund amount.

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3.13 Consequently, the First Appellate Authority passed a common Order-in-Appeal NIO-CGST-APPL-GBN-002-148 TO 152-2024-25 dated 28.06.2024 in favour of the respondent (M/s. B.L. Agro Oil Industries Ltd).

3.14 Being aggrieved by the said Order-in-Appeal, the Department has preferred the present 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.

4 GROUNDS OF APPEAL

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

4.2 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.

4.3 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.

4.4 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.

4.5 The appellant submitted that the learned First Appellate Authority erred in allowing differential refund for the same tax periods after the original refund

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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.

4.6 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.

5. SUBMISSIONS OF THE RESPONDENT

5.1 The Respondent submitted that the amended formula under Rule 89(5), introduced vide Notification No. 14/2022-Central Tax dated 05.07.2022, should apply to refund applications filed after 05.07.2022. The amendment included input service ITC in computation of refund and was stated to be curative in nature, intended to remove the anomaly in the earlier formula. Reliance was placed on Renuka Sugar Ltd., Indian Tobacco Association, Shree Lakshmi Foundry, Doosan Infracore India Pvt. Ltd. and Ascent Meditech Ltd. The Respondent also relied upon dismissal of the Department's SLP by the Hon'ble Supreme Court against the decision in Ascent Meditech Ltd.

5.2 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 while computing the limitation period under Section 54. Accordingly, the refund applications were stated to have been filed within the prescribed limitation period.

5.3 The Respondent submitted that neither Section 54 of the CGST Act nor Rule 89 of the CGST Rules contains any specific bar against filing a supplementary or differential refund claim, provided it is filed within the

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prescribed limitation period. Therefore, filing an earlier refund claim would not prevent the Respondent from subsequently claiming the legally admissible differential amount.

5.4 It was contended that Circular No. 181/13/2022-GST dated 10.11.2022 could not restrict the benefit available under the statutory provisions and judicial interpretation of amended Rule 89(5). Hence, the refund could not be rejected merely on the basis of the said circular.

5.5 The Respondent submitted that the amended formula under Rule 89(5) had already been applied and refunds sanctioned by the jurisdictional authority for other relevant periods, and such sanctions had not been challenged in appeal. Therefore, in the absence of any material change in facts or law, a contrary view should not be taken in the present case.

5.6 Regarding Ruchisoya Industries Ltd., the Respondent submitted that the decision was distinguishable and could not govern the present case in view of the subsequent amendment to Rule 89(5) and the later judicial pronouncements relied upon by the Respondent.

6. FINDINGS

6.1 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 and the findings recorded by the First Appellate Authority.

6.2 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, whereas the period to which the accumulated ITC relates is prior to that date. The principal issue, therefore, is whether the substituted formula under Rule 89(5), introduced

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vide Notification No. 14/2022-Central Tax dated 05.07.2022, can be applied to such refund claims. We find that the relevant date for applicability of the substituted formula is the date of filing of the refund application, and not the period in which the ITC accumulated.

6.3 We find that Notification No. 14/2022 substituted the existing formula under Rule 89(5) and thereby permitted consideration of ITC relating to input services in the prescribed manner. Relying upon the judicial principle that substitution ordinarily involves replacement of the existing provision by a new provision,

6.4 We 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(1) of Central Excise Act 1944".

Similarly, in 2002(142) E.L.T. 336 (Knr.) COMMISSIONER OF CUS. BANGALORE Versus CENTRAL MANUFACTURING TECHNOLOGY

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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.

6.5 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.

6.6 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 formula 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

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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."

6.7 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 statutory provisions. Therefore, where the provisions of the Act and the circular are found to be inconsistent, the provisions of the Act would prevail.

6.8 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

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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 .

6.9 In view of the above judicial pronouncements and the fact that the refund applications in the present case were filed after 05.07.2022, the finding of the First Appellate Authority that the amended formula under Rule 89(5) is applicable to the present refund claims is found to be proper.

6.10 We place reliance upon the refund sanction order dated 17.08.2022 in their own case, wherein a refund claim filed on 07.07.2022 for March 2022 had been processed by applying the substituted formula. Since the said order had not been reviewed by the department, the proper officer treated the same as a relevant circumstance supporting the appellants' interpretation. Accordingly, we find that the amended formula under Rule 89(5) was applicable to the claims under consideration.

6.11 We find that the amended formula under Rule 89(5), introduced vide Notification No. 14/2022-Central Tax dated 05.07.2022, was applicable to the refund applications filed after 05.07.2022. Thus, the fact that the ITC had accumulated during an earlier period did not, by itself, disentitle the appellants from computation of refund under the substituted formula.

6.12 We find that Circular No. 181/13/2022-GST expressly stated that the amendment was prospective and applicable to refund applications filed on or after

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05.07.2022. Subsequent judicial decisions have further considered the issue, so this point may require separate treatment if the order is being challenged or relied upon presently.

6.13 The next issue to be considered whether a supplementary refund claim can be filed for the same period after having already filed a NIL refund claim. We find that that neither the show-cause notice nor the adjudication order referred to any specific statutory provision prohibiting the filing of a supplementary claim. Therefore, the claim could not be rejected merely by stating that the GST law did not expressly prescribe a separate mechanism for supplementary refund claims.

6.14 The refund under Section 54 constitutes a substantive statutory benefit, whereas the filing of the refund application is procedural in nature. Accordingly, if it satisfies the substantive conditions for refund, we find that the benefit cannot be denied merely because of a procedural or technological difficulty in filing the claim in a particular category on the GST portal.

6.15 We find that the supplementary refund claim could not be rejected merely on the ground that there was no express provision specifically providing for a "supplementary refund claim". The refund claim should be examined on its merits and determine the actual admissibility of the refund in accordance with law.

6.16 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.

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ORDER

i. For the facts and reason discussed above, the order dated 28.06.2024 passed by the First Appellate Authority is upheld.

ii. Accordingly, all five appeals, [Appel No. 2026054101000084, 2026054101000085, 2026054101000086, 2026054101000087, 2026054101000088 Dated 22-01-2026], filed by CGST department are rejected.

18/9/26.
(Arvind Kumar)

18.09.26
(Santosh Kumar Srivastava)

Date: 18.09.2026

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