GSTAT

Court No. Court I

APL/1/CHD/2026

SHRUTI BANSAL **.....Appellant**

Versus

SOLITAIRE PHARMACIA PVT. LTD, DIRECTOR, 201 GH-4 SECTOR-20 PANCHKULA HRPAK 134109 **.....Respondent**

Counsel for Appellant
SHRI VEER SINGH MEENA, ASSISTANT COMMISSIONER (AUTHORISED REPRESENTATIVE)

Counsel for Respondent
SHRI RHYTHM KANSAL, ADVOCATE, ALONG WITH SHRI ASHU KUMAR, CA

Hon'ble Jatinder Pal Singh, Member(Judicial)
Hon'ble Pradeep Kumar Goel, Member (Technical)

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the GST Appellate Tribunal

whether remand order : No

Order reference no. : ZN500280926000282H **Date of order :** 24/09/2026

1.	GSTIN/Temporary ID/UIN -	
2.	Appeal Case Reference no. - APL/1/CHD/2026	Date - 26/02/2026
3.	Name of the appellant - Shruti Bansal , shruti.bansal1998@gov.in , 9643371428	
4.	Name of the respondant - 1. SOLITAIRE PHARMACIA PVT. LTD , accounts@solitairegroup.in , 9815777744	
5.	Order appealed against -	
	(5.1) Order Type - Refund Order	
	(5.2) Ref Number - ZD041025000976P	Date - 01/11/2023
6.	Personal Hearing - 24/09/2026 02/09/2026 19/08/2026 05/08/2026 22/07/2026	
7.	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	

8.	Order in brief - There is no dispute that the invoices covered by the four Shipping Bills were prepared during the relevant period for which refund claim has been filed (namely, the tax period 01.10.2021 to 31.12.2021). There is also no dispute that the goods covered by these four Shipping Bills have indeed been exported. This being the case, we find no reason to deny refund of ITC to the exporter in respect of the goods for which the invoices were admittedly issued during the relevant period, even though the goods were exported subsequent to the relevant period. In view of the discussion and findings in the final order, the appeal is dismissed.

Summary of Order

9.	If demand order then whether demand quantified: No

10.	For Other orders and Demand orders which are not quantified:	
Issues as raised by proper officer	Issues as determined by Appellate/Revisional authority	Order by GST Appellate Tribunal
Erroneous refund	Department did not accept the same and filed appeal with the office of Comm(A) vide APL-03 ARN-AD040925000436V dated 01.11.2023.	Appeal filed by the Department against the Impugned OIA is dismissed passed

Place :CHANDIGARH

Signature

Date : 24.09.2026

CHANDIGARH Jatinder Pal Singh

Designation : Member

Jurisdiction :Chandigarh

ORDER

In the present case, the appeal has been filed by the CGST Department against Order-in-Appeal No. CHD-CGST-001-APPL-ADC-28-2024-25 dated 21.05.2024 ('the Impugned Order'). Vide the said Impugned Order, the Additional Commissioner (Appeals), CGST Appeals Commissionerate, Chandigarh dismissed the CGST Department's appeal filed against refund sanction order (RFD-06) dated 02.05.2023 passed by the Deputy Commissioner, CGST Division-III, Chandigarh in the case of M/s Solitaire Pharmacia Private Limited, Chandigarh (hereinafter referred to as 'the exporter'). The exporter is the Respondent herein.

2. The facts of the case in brief are that a refund claim was filed by the exporter for refund of Input Tax Credit ('ITC') in respect of export of goods without payment of GST for the tax period 01.10.2021 to 31.12.2021. The refund claim was filed under rule 89(4) of the CGST Rules, 2017, claiming refund of Rs. 18,28,146/- in respect of export of goods valued at Rs. 3,17,03,825/-. The claim was sanctioned by the Deputy Commissioner, Central GST Division-III, Chandigarh on 02.05.2023. The refund sanction order was reviewed by the Commissioner under Section 107(2) of the CGST Act, 2017, and an appeal was filed by the CGST Department against the refund sanction order mainly on the ground that in some cases the export of goods was not made during the relevant period. In the said first appeal, an additional ground was that the amount of eligible ITC taken for calculating the refund amount was higher on account of some ineligible ITC. The CGST Department contended that the eligible refund was Rs. 12,58,188/-, and excess amount of Rs. 5,69,958/- had been sanctioned by the Deputy Commissioner. The said appeal of the CGST Department was rejected by the First Appellate Authority, and the CGST Department is now in appeal before the Appellate Tribunal against the Impugned Order.

3. The present appeal has been filed by the CGST Department on the following grounds:

(i) The export of goods against 04 Shipping Bills (S. No. 5 to 8 of Statement-3) does not pertain to the relevant period. There is a mismatch in the EGM No. and date; however, the same have been verified from ICEGATE website and it has been found that these goods were exported in the month of January 2022, which is beyond the "relevant period" i.e. 01.10.2021 to 31.12.2021 for which the refund claim was filed. Therefore, the turnover of zero rated supply of the goods as considered in the refund order and also affirmed by the First Appellate Authority i.e. Rs. 2,03,30,825/- cannot be considered for calculation of maximum refund eligibility. Accordingly, the correct Turnover of zero rated supply calculated as per Rule 89(4) of the CGST Rules, 2017 comes out to be Rs. 1,13,73,002/- only.

(ii) In the Impugned Order, the First Appellate Authority has erred to calculate the Turnover of zero rated supply as envisaged in Rule 89 of the CGST Rules, 2017. In this regard, kind attention has been invited in the Grounds of Appeal to the provisions of the relevant Rule (i.e. Rule 89(4) of the CGST Rules, 2017) under which the refund claim has been filed. Reference has also been invited to the following definitions of "export of goods" and "zero rated supply" in Section 2(5) and Section 2(23) of the Integrated Goods and Services Tax Act, 2017 ('the IGST Act, 2017'):

(5) "export of goods" with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India;

(23) "zero rated supply" shall have the meaning assigned to it in section 16;

Reference has also been invited to Section 16 of the IGST Act, 2017:

"Section 16. Zero rated supply.-

(1) "Zero rated supply" means any of the following supplies of goods or services or both, namely:-

(a) export of goods or services or both; or

(b) supply of goods or services or both for authorized operations to a Special Economic Zone developer or a Special Economic Zone unit.

In view of the above, the Turnover of zero rated supply for the relevant tax period in the instant case is Rs. 1,13,73,002/- only.

(iii) Further as per GSTR-1 & GSTR-3B, the party has domestic supply of Rs. 4,44,19,022/-. Hence, the Adjusted Total Turnover ('ATTO') calculated as per GSTR-3B & Statement 3A is as under: i. Turnover of zero rated supply of goods is Rs. 1,13,73,002/-; ii. Domestic Sale

Rs. 4,44,19,022/-. Hence, the ATTO is Rs. 5,57,92,024/-.

(iv) Further, ITC of Rs. 23,560/- (Rs. 1,167/- + Rs. 22,393/-) is not admissible to the party for refund. Hence, Net ITC in the instant case is 61,72,236/-, while the details of the same was mistakenly not intimated in the review order. However, the ITC in respect of the above mentioned is not admissible to the party as Net ITC for calculation of refund claim. Accordingly, maximum refund admissible to the party comes to Rs. (1,13,73,002/5,57,92,024) * 61,72,236 = 12,58,188/-.

(v) In view of the above, it appears that the First Appellate Authority has erred by rejecting the appeal of the Department and upholding the refund sanction order, vide which an amount of Rs. 5,69,958/- (Rs. 18,28,146/- minus Rs. 12,58,188/-) has been sanctioned in excess.

4. We have heard both the Appellant Department and the Respondent exporter. In his arguments, Shri Veer Singh Meena, Authorised Representative for the Department reiterated the grounds mentioned in the appeal. He has vehemently argued that the refund sanctioning authority had erred in sanctioning excess refund of 5,69,958/-, and that the First Appellate Authority erred in rejecting the first appeal filed by the Department. For the Respondent, Sh. Rhythm Kansal, Advocate along with Sh. Ashu Kumar, CA appeared and drew our attention to the para-wise reply filed on the portal on 19.08.2026 along with supporting documents. The counsel for the Respondent have addressed arguments in favour of the Respondent's case and in support of the Impugned Order.

5. We have gone through the grounds of appeal, the case records and the Respondent’s para-wise reply; and have carefully considered the arguments advanced by the Ld. Authorised Representative for the Appellant Department as well the contentions made by the Respondent through their learned counsel. The issues for determination before us are as under:

(i) Whether in view of the fact that the goods covered by four invoices were actually exported in the period subsequent to the “relevant period” for which the refund claim has been filed, refund would be inadmissible in respect of these four invoices, and

(ii) Whether the amount of ‘Net ITC’ for calculating the amount of refund is required to be reduced by the amount of inadmissible ITC.

6. As regards the first issue, it is not disputed that an exporter is allowed refund of ITC when goods or services are exported without payment of IGST under bond/Letter of Undertaking under Section 54 of the CGST Act, 2017 read with Rule 89 of the CGST Rules, 2017. The formula for calculating the amount of refund is provided in sub-rule 89(4) of the said Rules. Sub-rule 89(4), as it stood during the period involved in this case, is extracted

below for ready reference:

"(4) In the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), refund of input tax credit shall be granted as per the following formula -

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover

Where, -

(A) "Refund amount" means the maximum refund that is admissible;

(B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period, other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both;

(C) "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;

(D) "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-

Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;

(E) "Adjusted Total Turnover" means the sum total of the value of-

(a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and

(b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding -

(i) the value of exempt supplies other than zero-rated supplies; and

(ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any,

during the relevant period.

(F) "Relevant period" means the period for which the claim has been filed."

7. From a perusal of sub-rule (4) of Rule 89 as above, it is evident that for refund of ITC to an exporter for export of goods or services, three amounts are relevant for calculating the amount of refund: (i) Net ITC, (ii) Turnover of zero-rated supply of goods and services, and (iii) Adjusted Total Turnover. These terms have been defined in the sub-rule 89(4) itself. The dispute in the present case is regarding the "turnover of zero-rated supply of goods" and the issue involved is as to whether this will include the value of invoices which were admittedly issued during the relevant period for the goods exported, even though the goods were actually exported subsequent to the relevant period as per the corresponding shipping bills. As the present case involves export of goods alone and not of services, we will examine the legal provisions relating to goods alone

8. As per the relevant portion of clause (C) of sub rule (4) of Rule 89 extracted above, "turnover of zero-rated supply of goods" has been defined to mean the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking. As per the relevant portion of clause (E) ibid., the term "Adjusted Total Turnover" has been defined to mean the sum total of the value of: (a) the turnover in a State or UT as defined under clause (112) of Section 2, excluding the turnover of services; and (b) the turnover of zero-rated supply of services determined in terms of clause (D) and non-zero-rated supply of services. The terms "turnover in State" or "turnover in Union Territory" have been defined in clause (112) of section 2 of the CGST Act, 2017 to mean the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or UT by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or UT by the said taxable person, but excludes central tax, State tax, Union territory tax, integrated tax and cess.

9. The term "zero-rated supply" has been defined under clause (23) of section 2 of the IGST Act, 2017 as follows:

"zero-rated supply" shall have the meaning assigned to it in section 16".

As per sub-section 16(1) of the IGST Act, 2017:

"(1) "Zero-rated supply" means any of the following supplies of goods or services or both, namely:-_

(a) export of goods or services or both; or

(b) supply of goods or services or both for authorised operations to a Special Economic Zone developer or a Special Economic Zone unit."

The term "export of goods" has been defined under Section 2(5) of the IGST Act, 2017 as:

"(5) "export of goods", with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India".

10. From a perusal of the formula for calculation of refund amount as given in sub-rule (4) of Rule 89, it is evident that the amount of refund of ITC allowed to an exporter who exports goods without payment of tax under bond/Letter of Undertaking is that portion of "Net ITC" which is in the ratio of "turnover of zero-rated supply of goods" to the "Adjusted Total Turnover", during the relevant period. It is important to note that all three figures have to be for the same "relevant period".

11. With respect to the term "turnover", reference has to be made to clause (112) of Section 2 of the CGST Act, 2017, which has been quoted hereinabove. In the said clause (112), the terms "turnover in State" or "turnover in Union territory" have been defined to mean the aggregate value of all taxable supplies and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person. Under GST law, a taxpayer has to prepare invoices and declare the value declared in these invoices in the periodical returns as its turnover. The turnover of a taxpayer for a particular period will, therefore, be the sum total of invoices issued for supply during that period. In this context the provisions relating to the time when an invoice is required to be issued and when the tax becomes payable become relevant.

12. Section 12 of the CGST Act, 2017 provides for the time when tax becomes payable on supply of goods. The relevant provisions of Section 12 are as follows:

"Section 12. Time of Supply of Goods.-

(1) The liability to pay tax on goods shall arise at the time of supply, as determined in accordance with the provisions of this section.

(2) The time of supply of goods shall be the earlier of the following dates, namely:-

(a) the date of issue of invoice by the supplier or the last date on which he is required, under section 31, to issue the invoice with respect to the supply; or

(b) the date on which the supplier receives the payment with respect to the supply:

***Provided** that where the supplier of taxable goods receives an amount up to one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.*

Explanation 1.- *For the purposes of clauses (a) and (b), "supply" shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment.*

Explanation 2.- *For the purposes of clause (b), "the date on which the supplier receives the payment" shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier."*

13. The provisions relating to tax invoice are given in Section 31 of the CGST Act, 2017. The relevant provisions relating to issue of tax invoice for supply of goods are given in sub-section (1), which is extracted as under:

*"**Section 31. Tax invoice.-***

(1) A registered person supplying taxable goods shall, before or at the time of,-

(a) removal of goods for supply to the recipient, where the supply involves movement of goods; or

(b) delivery of goods or making available thereof to the recipient, in any other case, issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon and such other particulars as may be prescribed:

Provided that the Government may, on the recommendations of the Council, by notification, specify the categories of goods or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed."

14. It is thus evident that as per the provisions of Section 12 read with Section 31 of the CGST Act, 2017, where the supply of goods involves movement of the goods, the person supplying taxable goods has to issue a tax invoice before or at the time of supply i.e. removal of goods. It is pertinent to note sub-section 31(1) employs the word "shall", which indicates the mandatory nature of this requirement. When goods are supplied for export, which is a zero-rated supply, the tax invoice has to be prepared before or at the time of removal of the export goods and the tax becomes payable as soon as the goods are supplied from any place in India. In case of export of goods under bond or letter of undertaking, the tax becomes payable but is not paid at the time of supply as the exporter undertakes to export these goods subsequent to removal. The supply of export goods, which is treated as zero-rated supply under GST laws, thus takes place at the time of the removal of such goods for export and preparation of the tax invoice, even though the goods are treated as duly exported only when they leave India as per the endorsement on the Shipping Bill.

15. In view of the legal position as discussed hereinbefore, it is clear that the turnover of zero-rated supply of goods has to be calculated from the tax invoices issued for goods intended to be exported. It may also be relevant to mention in this regard that the proforma for filing refund claim (i.e. RFD-01) prescribed under sub-rule 89 (1) of the CGST Rules, 2017 provides for declaring the details of relevant invoices as well as shipping bills for the purpose of claiming refund of ITC under sub-rule 89(4). Accordingly, if the invoices for the goods cleared for export under bond or letter of undertaking are issued during the relevant period, they would be included in the turnover of zero-rated supply, regardless of whether the goods covered by the invoices were actually exported during the relevant period or not. Needless to say, the refund of ITC can be given only after the exporter is able to establish that the goods have actually been exported.

16. In the instant case, there is no dispute that the invoices covered by the four Shipping Bills were prepared during the relevant period for which refund claim has been filed (namely, the tax period 01.10.2021 to 31.12.2021). There is also no dispute that the goods covered by these four Shipping Bills have indeed been exported. This being the case, we find no reason to deny refund of ITC to the exporter in respect of the goods for which the invoices were admittedly issued during the relevant period, even though the goods were exported subsequent to the relevant period.

17. As regards the second issue, the Appellant Department has claimed that an amount of Rs. 23,560/- is not admissible and the eligible amount of net ITC comes to Rs. 61,72,236/-. As held by the First Appellate Authority at para 6.2 of the Impugned Order, the amount of inadmissible ITC is not going to make any significant change in the figure of maximum refund that is admissible as per the formula in sub-rule (4) of Rule 89 and which is much

higher than amount of refund claimed by the exporter.

18. In view of the above discussion and findings, the appeal is dismissed.

(Jatinder Pal Singh)

(Pradeep Kumar Goel)

Dated: 24.09.2026