GSTAT

State Bench Vishakhapatnam

Court No. Court I

APL/1/VSK/2026

MAITHAN ALLOYS LIMITED **.....Appellant**

Versus

(DR. JEAN JESUDASS PALAPARTHYIRS) DEPUTY COMMIS SIONER, DEPUTY COMMISSIONER, PLOT NO. 36A PANDURANGAPURAMRK BEACH ROAD WALTAIRWARDVISAKHAPATN AM- 530 003 **.....Respondent**

Quorum

Hon'ble Bhaskar Reddy Vemireddy, Member(Judicial)
Hon'ble SH SATISH AGRAWAL, Member (Technical)

Counsel for Appellant
INPERSON
SHRI. SUDARSHAN SHIT

Counsel for Respondent

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 : Yes

Order reference no. : ZN370021026000040H **Date of order :** 14/10/2026

1.	GSTIN/Temporary ID/UIN - 37AABCM7758B1ZF	
2.	Appeal Case Reference no. - APL/1/VSK/2026	Date - 22/04/2026
3.	Name of the appellant - Maithan Alloys Limited , amar.modi@maithanalloys.com , 8096555018	
4.	Name of the respondant - 1. (Dr. JEAN JESUDASS PALAPARTHYIRS) DEPUTY COMMIS SIONER , acsouthdiv-gstvskp@gov.in , 8912738150	
5.	Order appealed against - AD370724000799Q	
	(5.1) Order Type - Refund Order	
	(5.2) Ref Number - ZD371125008339G	Date - 07/11/2025

6.	Personal Hearing - 14/10/2026 06/10/2026 17/09/2026 20/08/2026 06/08/2026 23/07/2026
7.	Order in brief - The appeals are allowed in the following terms: (i) The impugned orders passed by the First Appellate Authority vide Order in Appeal Nos.VIZ-GST-APP-051-2025-26, VIZ-GST-APP-052-2025-26 & VIZ-GST-APP-053-2025-26 dated 10-09-2025 as well as the corresponding orders of the adjudicating authority rejecting the appellant's refund claims, are hereby set aside. (ii) The matters are remitted to the jurisdictional proper officer for the limited purpose of determining the admissible quantum of refund and sanctioning the eligible amount in accordance with Section 54 of the CGST Act, Section 16 of the IGST Act and the applicable provisions of the CGST Rules. (iii) While undertaking the aforesaid exercise, the proper officer shall give effect to the findings recorded in this order concerning the maintainability of the refund claims and shall not reject the claims on the ground that the appellant, being an SEZ unit, is categorically barred from claiming refund of ITC distributed through an ISD. (iv) Any proposed exclusion on the ground that a corresponding refund has already been sanctioned to a supplier shall be supported by relevant documentary evidence establishing the correspondence between the refund allegedly sanctioned and the credit claimed by the appellant. The appellant shall be afforded a reasonable opportunity to respond to such material before any adverse determination is made. (v) The exercise shall be completed, and the eligible refund sanctioned in accordance with law, preferably within three months from the date of receipt of a copy of this order.

Summary of Order

8.	If demand order then whether demand quantified: Yes

Section-I

Particulars	Central tax		State/UT tax		Integrated tax		Cess		Total	
	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount	Disputed Amount	Determined Amount
1	2	3	4	5	6	7	8	9	10	11
(a) Tax	0		0		0		0		0	0
(b) Interest	0		0		0		0		0	0
(c) Penalty	0		0		0		0		0	0
(d) Fees	0		0		0		0		0	0
(e) Others										0
(f) Refund						254493				254493

9.	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		Enclosed in case Summary	
10.	If remanded with directions:		
	a) Remanded to: Adjudicating Authority		

	b) Directions subject to which remanded, if any: The matters are remitted to the jurisdictional proper officer for the limited purpose of determining the admissible quantum of refund and sanctioning the eligible amount in accordance with Section 54 of the CGST Act, Section 16 of the IGST Act and the applicable provisions of the CGST Rules.

Place :VISHAKHAPATNAM

Signature

Date : 14.10.2026

VISHAKHAPATNAM Bhaskar Reddy Vemireddy

Designation : Member

Jurisdiction :Vishakhapatnam

ORDER

Per: Shri Bhaskar Reddy Vemireddy, Member (Judicial), GSTAT, Andhra Pradesh.

1.Background and facts of the case

1.1. These appeals have been preferred by the appellant, a unit situated in a Special Economic Zone (hereinafter referred to as the "SEZ unit"), assailing the orders passed by the First Appellate Authority, whereby the appeals filed against the respective orders of the adjudicating authority rejecting the appellant's claims for refund of unutilised Input Tax Credit (hereinafter referred to as "ITC") for the periods April 2022, May 2022 and June 2022 were dismissed.

1.2. The appellant is engaged in the export of goods without payment of integrated tax. In the course of its business, the appellant received ITC distributed through an Input Service Distributor (hereinafter referred to as the "ISD"). The credit so distributed remained unutilised in the appellant's electronic credit ledger, and the appellant sought refund thereof in accordance with the applicable provisions of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act"), read with the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the "IGST Act") and the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the "CGST Rules").

1.3. The adjudicating authority rejected the refund claims principally on the ground that the appellant, being the recipient of goods or services supplied to an SEZ unit, was not entitled to claim refund of the unutilised ITC. According to the adjudicating authority, on a conjoint reading of Section 54 of the CGST Act, Section 16 of the IGST Act and Rule 89 of the CGST Rules, the entitlement to claim refund in respect of supplies to an SEZ unit vested in the supplier and not in the recipient.

1.4. The First Appellate Authority affirmed the rejection. In addition to endorsing the aforesaid interpretation of the statutory provisions, the First Appellate Authority recorded an observation that the departmental back-office records allegedly revealed that the suppliers had already claimed and received refunds in respect of the relevant supplies.

1.5. Aggrieved thereby, the appellant is before this Tribunal.

2.Submissions on behalf of the appellant

2.1. Learned counsel for the appellant submits that the impugned orders proceed on a fundamental misappreciation of the nature of the refund claimed. It is contended that the appellant is not seeking refund merely because it is the recipient of supplies made to an SEZ unit. The claim is for refund of unutilised ITC validly distributed to the appellant through the ISD mechanism, which remains unutilised against the appellant's own zero-rated exports made without payment of integrated tax.

2.2. It is submitted that Section 16 of the IGST Act expressly recognises exports as zero-rated supplies and that Section 54(3) of the CGST Act, read with Rule 89(4) of the CGST Rules, provides the statutory mechanism for refund of unutilised ITC attributable to eligible zero-rated supplies made without payment of tax.

2.3. According to learned counsel, the second proviso to Rule 89(1) of the CGST Rules, which contemplates the filing of a refund application by the supplier in respect of supplies to an SEZ unit or SEZ developer, cannot be interpreted as an absolute prohibition against an SEZ unit claiming refund of ITC distributed to it through an ISD. Such an interpretation, it is argued, would render the accumulated credit incapable of being refunded even though the appellant has made zero-rated exports and the original suppliers have no independent entitlement to claim refund of credit already distributed through the ISD.

2.4. Learned counsel further submits that the statutory scheme does not contemplate a situation in which the appellant is denied refund merely because the credit originated in tax paid on input services procured through the corporate structure and subsequently distributed to the SEZ unit. The appellant relies, inter alia, upon the decisions of the Hon'ble Gujarat High Court in *Britannia Industries Ltd. v. Union of India*, *SE Forge Ltd. v. Union of India*, *IPCA Laboratories Ltd. V. Commissioner*, *Platinum Holdings Pvt. Ltd. V.s Additional Commissioner of GST & C.Ex (Appeals-I), Chennai*, besides other judicial pronouncements dealing with refund claims of SEZ units.

2.5. With regard to the observation of the First Appellate Authority that the suppliers had already obtained refunds, learned counsel submits that no such allegation was put to the appellant during the appellate proceedings and no supporting documentary material was furnished. It is further pointed out that the Department's counter filed before this Tribunal is silent on any evidence establishing that the suppliers had actually received refunds corresponding to the credit distributed to the appellant.

2.6. Learned counsel, therefore, submits that the impugned orders are contrary to the statutory scheme, inconsistent with the judicial precedents relied upon and unsustainable on the factual ground concerning the alleged double refund.

3.Submissions on behalf of the Revenue

3.1. Learned authorised representative appearing for the Revenue supports the impugned orders and reiterates that Rule 89(1) of the CGST Rules specifically provides that, in respect of supplies to an SEZ unit or SEZ developer, the refund application shall be filed by the supplier of goods or services, subject to the prescribed conditions.

3.2. During the hearing, the Tribunal sought clarification regarding the factual basis for the observation of the First Appellate Authority that the suppliers had already claimed and received refunds. In the additional counter filed before this Tribunal, the Department has stated that such a contention was not raised before the First Appellate Authority and that no evidence is available on record establishing that the suppliers had actually received refunds as alleged in the impugned orders.

3.3. The matter has, therefore, been examined in the light of the rival submissions, the relevant statutory provisions and the judicial pronouncements governing the issue.

4.Questions of law under consideration

Question No. 1: Whether an SEZ unit making zero-rated exports of goods without payment of integrated tax is entitled to claim refund of unutilised ITC validly distributed to it through an Input Service Distributor (ISD), subject to the conditions prescribed under Section 54 of the CGST Act, 2017, read with Section 16 of the IGST Act, 2017 and Rule 89 of the CGST Rules, 2017?

Question No. 2: Whether the second proviso to Rule 89(1) of the CGST Rules, which provides for filing of a refund application by the supplier in respect of supplies to an SEZ unit or SEZ developer, constitutes an absolute bar against a refund claim made by an SEZ unit in respect of ITC distributed through an ISD and attributable to its own zero-rated exports?

Question No. 3: Whether the refund claim of the appellant can be rejected on the ground that the suppliers of the underlying goods or services are alone entitled to claim refund, notwithstanding that the relevant ITC has already been distributed through the ISD mechanism and the appellant has accumulated unutilised credit against its zero-rated exports?

Question No. 4: Whether the finding of the First Appellate Authority that the suppliers had already claimed and received refund, allegedly on the basis of departmental back-office records, can be sustained when the allegation was not put to the appellant, the Department did not substantiate it with supporting evidence and the Revenue has subsequently acknowledged that no evidence of such refund is available on record?

Question No. 5: Whether the impugned orders rejecting the refund claims are sustainable in law and, if not, what consequential relief should be granted to the appellant?

5.Consideration of the statutory provisions

5.1. Nature of zero-rated supplies

Section 16(1) of the IGST Act, as applicable to the relevant period, defines “zero-rated supply” to include exports of goods or services or both and supplies of goods or services or both to an SEZ developer or an SEZ unit.

The statutory scheme thus recognises two distinct categories of zero-rated supplies: exports and supplies made to an SEZ unit or developer. Although both fall within the concept of zero-rating, the legal character of the respective transactions and the provisions governing the corresponding refund claims must be examined in their proper context.

In the present case, the appellant's claim is founded upon the unutilised ITC lying in its electronic credit ledger and its own exports made without payment of integrated tax. The appellant is not seeking to substitute itself for an original supplier in claiming refund of tax charged on a direct supply to an SEZ unit. Its contention is that the credit has been validly distributed through the ISD mechanism and is refundable in accordance with the provisions governing its own zero-rated exports.

This distinction is material and cannot be disregarded while determining the applicability of Rule 89(1).

5.2. Section 16 of the IGST Act and Section 54 of the CGST Act

The expression 'zero-rated supply' is defined in Section 16 of the Integrated Goods and Services Tax Act, 2017 (the IGST Act). Sub-Section (3) thereof enables a registered person making zero-rated supply to claim refund. Section 16 of IGST Act 2017 is set out below:

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 [1][for authorised operations] to a Special Economic Zone developer or a Special Economic Zone unit.

(2) Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.

[2][(3) A registered person making zero rated supply shall be eligible to claim refund of unutilised input tax credit on supply of goods or services or both, without payment of integrated tax, under bond or Letter of Undertaking, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder, subject to such conditions, safeguards and procedure as may be prescribed:

Provided that the registered person making zero rated supply of goods shall, in case of non- realisation of sale proceeds, be liable to deposit the refund so received under this sub-section along with the applicable interest under section 50 of the Central Goods and Services Tax Act within thirty days after the expiry of the time limit prescribed under the Foreign Exchange Management Act, 1999 (42 of 1999.) for receipt of foreign exchange remittances, in such manner as may be prescribed.

(4) The Government may, on the recommendation of the Council, and subject to such conditions, safeguards and procedures, by notification, specify-

(i) a class of persons who may make zero rated supply on payment of integrated tax and claim refund of the tax so paid [3][in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder];

(ii) a class of goods or services [3][or both, on zero rated supply of which, the supplier may pay integrated tax and claim the refund of tax so paid, in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder].]

[3][(5) Notwithstanding anything contained in sub-sections (3) and (4), no refund of unutilised input tax credit on account of zero-rated supply of goods or of integrated tax paid on account of zero-rated supply of goods shall be allowed where such zero-rated supply of goods are subjected to export duty.]

Section 16 of the IGST Act provides the substantive framework governing zero-rated supplies. Under the applicable statutory scheme, a registered person making eligible zero-rated supplies may claim refund in accordance with the prescribed conditions, including refund of unutilised ITC where the supply is made under a bond or Letter of Undertaking without payment of integrated tax.

Section 54(1) of the CGST Act enables claiming refund of any tax or interest by any person by making necessary application before expiry of two years from the relevant date in such form and manner as prescribed. In terms of Section 54(3) a registered person is entitled to claim refund of any unutilised input tax credit relatable to Zero rated supplies made without payment of tax.

Section 54. Refund of tax reads as under:

(1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed:

***Provided** that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in [1][such form and] manner as may be prescribed.*

(2) A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of [1][two years] from the last day of the quarter in which such supply was received.

(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

***Provided** that no refund of unutilised input tax credit shall be allowed in cases other than-*

(i) zero rated supplies made without payment of tax;

(ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

Section 54(3) of the CGST Act provides for refund of unutilised ITC at the end of a tax period, subject to the conditions and restrictions contained therein. Rule 89(4) of the CGST Rules prescribes the formula for determining the maximum admissible refund in respect of eligible zero-rated supplies made without payment of tax.

The entitlement to refund is, therefore, governed by the substantive provisions of the Act, read with the applicable rules. The claimant must establish that the credit has been validly availed, that the relevant supplies qualify for the benefit claimed, and that the refund is computed in accordance with the statutory formula and other applicable conditions.

The mere fact that the claimant is an SEZ unit cannot, by itself, be treated as a disqualification from claiming refund of unutilised ITC attributable to its own zero-rated exports.

5.3. Scope and application of Rule 89(1)

The Revenue places considerable reliance upon the second proviso to Rule 89(1) of the CGST Rules, which stipulates that, in respect of supplies to an SEZ unit or SEZ developer, the refund application shall be filed by the supplier of goods or services, subject to the prescribed conditions.

The said proviso cannot, however, be read in isolation or construed without reference to the nature of the transaction giving rise to the refund claim.

The proviso addresses refund claims arising in respect of supplies made to an SEZ unit or SEZ developer. It cannot automatically be extended to every claim made by an SEZ unit, irrespective of whether the claim arises from a direct supply to it or from ITC distributed through an ISD and subsequently remaining unutilised against its own zero-rated exports.

An interpretation which treats the proviso as an absolute bar against every refund claim made by an SEZ unit would fail to distinguish between the original supply of goods or services and the subsequent utilisation or accumulation of ITC in the hands of the recipient of a validly distributed credit.

The relevant question is not merely whether the appellant is an SEZ unit or whether the underlying credit originated in tax paid on input services. The question is whether, on the facts of the case, the appellant is entitled to claim refund of the unutilised credit under the provisions governing its zero-rated exports and whether any specific statutory restriction operates to exclude that claim.

The statutory provisions must be construed harmoniously so that the procedural rule is not applied in a manner which defeats the substantive entitlement contemplated by the Act in a factual situation not covered by the particular restriction relied upon by the Revenue.

6.Judicial precedents

6.1. Britannia Industries Ltd. v. Union of India

The issue has been considered by the Hon'ble Gujarat High Court in *M/s. Britannia Industries Ltd. v. Union of India*, Special Civil Application No. 15473 of 2019, decided on 11 March 2020.

In that case, the petitioner was an SEZ unit which had received IGST credit distributed by an ISD in respect of input services. The refund claim was rejected on the ground that the SEZ unit, being the recipient, was not entitled to claim refund under Rule 89 of the CGST Rules.

The Hon'ble High Court examined the statutory provisions and the mechanism governing distribution of input service credit. It declined to accept the Revenue's contention that the SEZ unit could not claim refund merely because it was the recipient of the input services. The Court recognised that, once the credit had been distributed through the ISD, the original supplier could not claim refund of the credit so distributed in the manner contemplated by the Department.

The decision is significant because it addresses the precise difficulty arising when credit is distributed through an ISD and the Revenue nevertheless insists that only the original supplier may claim refund.

The principle emerging from the decision is that the refund provisions must be applied with due regard to the legal character of the credit and the mechanism by which it has been distributed. A construction which leaves the credit without any legally available route for refund cannot be adopted merely by applying the supplier-specific proviso without examining its applicability to the transaction in question.

6.2. SE Forge Ltd. v. Union of India

The issue was considered further by the Hon'ble Gujarat High Court in *M/s. SE Forge Ltd. v. Union of India* , Special Civil Application No. 16056 of 2022, decided on 3 February 2023.

The petitioner therein was an SEZ unit engaged in exports. It had accumulated unutilised ITC, including credit distributed through an ISD, and its refund claim was rejected on the ground that the supplier alone was entitled to claim refund under Rule 89.

The Hon'ble High Court examined the earlier decision in *Britannia Industries Ltd.* and the statutory mechanism governing ISD-distributed credit. It held that the Revenue's objection was not sustainable in the circumstances where the supplier could not claim refund of the credit already distributed through the ISD. The Court consequently directed the Revenue to process the refund claim, subject to verification and the appropriate safeguards against double refund.

The decision in *SE Forge Ltd.* is particularly relevant to the present appeals. It recognises that the supplier-specific procedure under Rule 89 cannot be applied mechanically where the ITC has already been distributed through an ISD and the statutory mechanism does not permit the original supplier to claim refund of that distributed credit.

The factual and legal principle in the aforesaid decision is directly applicable to the issue before us.

6.3. Wipro Ltd. v. Assistant Commissioner

We also take note of the decision of the Hon'ble Madras High Court in *M/s. Wipro Ltd. v. Assistant Commissioner*, W.P. Nos. 26499 and 17606 of 2026 and connected matters, decided on 11 August 2026.

The petitioner in that case was an SEZ unit to which input service credit had been apportioned by the corporate office acting as an ISD. The refund claims relating to unutilised credit were rejected by the Department, substantially on the ground that the supplier-specific proviso to Rule 89 precluded the SEZ unit from filing the refund application.

The Hon'ble High Court examined the nature of ISD-distributed credit and the distinction between a direct supply to an SEZ unit and credit distributed to an SEZ unit by an ISD. It held that the objection of the Department was not tenable in the circumstances before it and directed the processing of the refund claims.

The Court also explained that the supplier-specific proviso to Rule 89 must be understood in the context of a direct supply to an SEZ unit and that the statutory scheme cannot be applied so as to deny refund where the credit has been distributed through an ISD and no specific supplier can claim refund of that distributed credit.

The decision reinforces the principle laid down in *Britannia Industries Ltd.* and *SE Forge Ltd.* and provides further support for the appellant's contention.

6.4. Application of the judicial principles to the present appeals

The aforesaid decisions demonstrate that the objection raised by the Revenue is not sustainable merely on the ground that the appellant is an SEZ unit and the original supplies were made by other registered persons.

The material consideration is that the ITC in question was distributed through the ISD mechanism and that the appellant seeks refund of the unutilised credit in connection with its own zero-rated exports.

The Revenue has not demonstrated any statutory provision which, in the facts of the present case, categorically extinguishes the appellant's entitlement to seek refund of such credit. Nor has it established that the original suppliers remain entitled to claim refund of the very credit which has already been distributed through the ISD.

We are, therefore, unable to sustain the interpretation adopted by the adjudicating authority and affirmed by the First Appellate Authority.

7.Allegation that the suppliers had already received refund

7.1. The finding of the First Appellate Authority that the suppliers had already claimed and received refunds requires separate consideration because it constitutes an additional factual basis for sustaining the rejection of the appellant's claims.

7.2. The Department's additional counter before this Tribunal does not substantiate the finding recorded by the First Appellate Authority. On the contrary, the Department has stated that the allegation was not raised before the First Appellate Authority and that no evidence is available establishing that the suppliers had

received refunds as alleged.

7.3. In these circumstances, the finding recorded by the First Appellate Authority cannot be sustained merely on the basis of an unsubstantiated reference to departmental back-office records.

7.4. A finding which has an adverse bearing upon a taxpayer's entitlement to refund must be founded upon relevant material and must be reached after affording the taxpayer a reasonable opportunity to meet the case against it. The requirement is not a mere procedural formality. It is an essential safeguard against the denial of statutory benefits on the basis of material which has neither been disclosed nor tested.

7.5. Further, the mere fact that a supplier may have filed a refund application would not, without more, establish that the refund was actually sanctioned or that it pertained to the very amount of ITC distributed to the appellant. The relevant records must establish the identity of the supplier, the invoices concerned, the amount of credit involved, the refund claimed, the refund actually sanctioned and the correspondence between that amount and the credit forming the subject matter of the appellant's claim.

7.6. No such material has been placed before us. In the absence of evidence establishing that the suppliers had actually obtained refund of the very credit in dispute, the observation of the First Appellate Authority remains unsupported by the record.

7.7. We are conscious that the statutory refund mechanism cannot be used to confer a double benefit in respect of the same tax amount. However, the possibility of double refund and the proof of double refund are two different matters. The former may justify verification; the latter requires evidence.

7.8. Accordingly, the finding that the suppliers had already received refund cannot be sustained and shall not constitute a ground for rejecting the appellant's claims. If, during the limited verification of the eligible amount, the Department proposes to exclude any specific amount on the ground that a corresponding refund has already been sanctioned to a supplier, such exclusion must be supported by cogent documentary evidence and must be preceded by a reasonable opportunity to the appellant to respond.

8.VIOLATION OF PRINCIPLES OF NATURAL JUSTICE

8.1. The finding of the First Appellate Authority that the suppliers had already claimed and received refunds also requires separate consideration in the context of the fundamental doctrine of "Audi Alteram Partem".

8.2 The appellant has specifically disputed the correctness of this observation. It is submitted that the allegation was never put to the appellant during the appellate proceedings and that no documentary material was furnished to establish that any refund had actually been sanctioned to the suppliers in respect of the very credit distributed to the appellant. It is the contention of the appellant that the First Appellate Authority, while disposing of the appeal, has introduced a fresh decisive ground of claim of the same amount of ITC by the suppliers, though there is no such facility available to the respective suppliers in the case where ITC was distributed through the ISD mechanism.

8.3?It is the settled principle of natural justice that when an appellate or adjudicating authority proposes to decide a matter on a ground which has not been put to the affected party, reasonable notice and an effective opportunity to meet such ground must be afforded. The appellant ought to have been given an opportunity to rebut the averment. In the absence of such opportunity, the impugned orders of the 1st Appellate authority

cannot be sustained in law as they suffer from vice of non-observance of the principles of natural justice and directly violates fundamental doctrine of "Audi Alteram Partem". In support of the proposition reliance is placed on the decisions of the Hon'ble Supreme Court in *M/S Saci Allied Products Ltd.,U.P vs Commissioner Of Central Excise, Meerut on 26 April, 2005 reported in 2005 (7) SCC 159 and in Reckitt & Colman of India Ltd. vs. CCE, 1996(88)ELT 641(SC).*

8.4. The Hon'ble Supreme Court in *S.N. Mukherjee v. Union of India [(1990) 4 SCC 594* referring to the doctrine of audi alteram partem has held that "the principle of natural justice has twin ingredients; firstly, the person who is likely to be adversely affected by the action of the authorities should be given notice to show cause thereof and granted an opportunity of hearing and secondly, the orders so passed by the authorities should give reason for arriving at any conclusion showing proper application of mind. Violation of either of them could in the given facts and circumstances of the case, vitiate the order itself."

9.Findings and conclusions

Question Nos. 1 to 3: Entitlement of an SEZ unit to refund of ITC distributed through an ISD

9.1 Questions Nos. 1 to 3 are interrelated and are, therefore, considered together.

The controversy essentially concerns the interpretation of Section 16 of the IGST Act, Section 54 of the CGST Act and Rule 89 of the CGST Rules. The Revenue's principal objection is that, since the appellant is an SEZ unit receiving goods or services, it cannot claim refund and that the right to seek refund vests exclusively in the supplier.

The appellant, on the other hand, contends that its claim is not founded merely upon its status as a recipient of supplies to an SEZ unit. It arises from the unutilised ITC validly distributed to it through an ISD and attributable to its own zero-rated exports made without payment of integrated tax.

The distinction is material. Section 16(1) of the IGST Act recognises exports of goods or services and supplies to an SEZ unit or developer as zero-rated supplies. Section 54(3) of the CGST Act, read with the applicable provisions of Section 16 of the IGST Act and Rule 89 of the CGST Rules, provides the framework for refund of unutilised ITC in the case of eligible zero-rated supplies made without payment of tax.

The second proviso to Rule 89(1) must be construed in the context of the statutory scheme and the nature of the transaction giving rise to the refund claim. A provision regulating the person entitled to seek refund in respect of a direct supply to an SEZ unit cannot, without examining the relevant facts and the applicable statutory conditions, be extended to extinguish the entitlement arising from ITC distributed through an ISD and remaining unutilised against the SEZ unit's own zero-rated exports.

The issue is not res integra. The Hon'ble Gujarat High Court in *Britannia Industries Ltd. v. Union of India* , Special Civil Application No. 15473 of 2019, decided on 11 March 2020, examined the entitlement of an SEZ unit to claim refund of credit distributed through an ISD. The Court rejected the Revenue's objection in the circumstances before it and recognised that the original supplier could not claim refund of credit already distributed through the ISD mechanism.

The Hon'ble Gujarat High Court considered the issue further in *SE Forge Ltd. v. Union of India*, Special Civil Application No. 16056 of 2022, decided on 3 February 2023. The decision supports the proposition that the supplier-specific proviso to Rule 89 cannot be mechanically invoked to deny refund to an SEZ unit where the relevant ITC has been distributed through an ISD and the supplier cannot claim refund of the credit so distributed.

We also take note of the decision of the Hon'ble Madras High Court in *Wipro Ltd. v. Assistant Commissioner* , W.P. Nos. 26499 and 17606 of 2026 and connected matters, decided on 11 August 2026, concerning the refund of ISD-distributed credit to an SEZ unit. The decision further supports the distinction between a direct supply to an SEZ unit and credit distributed through an ISD to an SEZ unit making zero-rated exports.

The principles emerging from the aforesaid decisions support the appellant's contention that the mere fact that it is an SEZ unit and the recipient of the underlying input services does not, by itself, disentitle it from seeking refund of eligible unutilised ITC distributed through an ISD.

We are conscious that the right to refund is subject to the statutory conditions and cannot be enlarged beyond the entitlement conferred by the Act. Equally, however, a procedural provision cannot be applied mechanically in a manner that defeats the substantive statutory scheme without a clear legislative basis.

In the present case, the refund claims have been rejected principally on the ground that the appellant, being an SEZ unit and recipient of supplies, is not entitled to claim refund. The impugned orders do not establish a sustainable legal basis for treating the appellant's claims as categorically barred, notwithstanding the distribution of ITC through an ISD and the appellant's own zero-rated exports.

We accordingly answer Question Nos. 1 to 3 in favour of the appellant, subject to verification of the validity and quantum of eligible ITC and compliance with the statutory requirements applicable to the relevant tax periods.

Question No. 4: Finding regarding refund allegedly obtained by the suppliers

The First Appellate Authority has observed that departmental back-office records revealed that the suppliers had claimed and received refunds in respect of the relevant amounts.

When the factual basis of this observation was questioned by the Tribunal, the Revenue, in its additional counter, stated that the allegation had not been raised before the First Appellate Authority and that no evidence was available on record establishing that the suppliers had actually received refunds as alleged.

An adverse finding affecting a taxpayer's entitlement to refund must be supported by relevant material and reached after affording the taxpayer a reasonable opportunity to rebut the allegation. A reference to departmental back-office records, without disclosure of the underlying material or production of supporting

evidence, cannot by itself establish that a corresponding refund has actually been sanctioned.

Further, the mere filing of a refund application by a supplier, even if established, would not necessarily prove that the refund was sanctioned or that it related to the precise ITC distributed to the appellant. The relevant records must establish the identity of the supplier, the invoices concerned, the credit involved, the refund sanctioned and the correspondence between the amount refunded and the credit forming the subject matter of the appellant's claim.

No such evidence has been produced before us. The finding recorded by the First Appellate Authority is, therefore, unsupported by the material placed on record and cannot be accepted.

This conclusion does not mean that a double refund of the same tax amount can be permitted. If the Department establishes, through cogent documentary evidence, that a specific amount forming part of the appellant's claim has already been refunded to the supplier, that fact may be examined in accordance with law, after giving the appellant a reasonable opportunity to respond. What cannot be sustained is the rejection of the entire claim on the basis of an unsubstantiated allegation.

Question No. 4 is accordingly answered in favour of the appellant.

Question No. 5: Consequential relief

In view of our findings on Question Nos. 1 to 4, the impugned orders rejecting the refund claims cannot be sustained.

The appellant's entitlement to maintain the refund claims stands recognised. Nevertheless, determination of the precise amount refundable requires verification of the admissible ITC, its distribution through the ISD, its availability in the appellant's electronic credit ledger, the applicable refund formula and the other statutory conditions governing the relevant tax periods.

We consider it appropriate, therefore, to remit the matters to the jurisdictional proper officer for the limited purpose of quantifying the eligible refund and sanctioning the admissible amount in accordance with law.

The remand shall not be treated as an opportunity to reopen the legal issue decided by this Tribunal or to reiterate the objection that an SEZ unit is categorically barred from claiming refund of ITC distributed through an ISD. Any proposed exclusion on the ground of an alleged prior refund to a supplier must be supported by documentary evidence and considered after affording the appellant a reasonable opportunity of being heard.

Question No. 5 is answered accordingly.

10.Order

In the result, and for the reasons recorded above, the appeals are **allowed** in the following terms:

(i) The impugned orders passed by the First Appellate Authority vide Order in Appeal Nos.VIZ-GST-APP-051-2025-26, VIZ-GST-APP-052-2025-26 & VIZ-GST-APP-053-2025-26 dated 10-09-2025 as well as the corresponding orders of the adjudicating authority rejecting the appellant's refund claims, are hereby set aside.

(ii) The matters are remitted to the jurisdictional proper officer for the limited purpose of determining the admissible quantum of refund and sanctioning the eligible amount in accordance with Section 54 of the CGST Act, Section 16 of the IGST Act and the applicable provisions of the CGST Rules.

(iii) While undertaking the aforesaid exercise, the proper officer shall give effect to the findings recorded in this order concerning the maintainability of the refund claims and shall not reject the claims on the ground that the appellant, being an SEZ unit, is categorically barred from claiming refund of ITC distributed through an ISD.

(iv) Any proposed exclusion on the ground that a corresponding refund has already been sanctioned to a supplier shall be supported by relevant documentary evidence establishing the correspondence between the refund allegedly sanctioned and the credit claimed by the appellant. The appellant shall be afforded a reasonable opportunity to respond to such material before any adverse determination is made.

(v) The exercise shall be completed, and the eligible refund sanctioned in accordance with law, preferably within three months from the date of receipt of a copy of this order.

(Bhaskar Reddy Vemireddy)

(SH SATISH AGRAWAL)

Dated: 14.10.2026