GSTAT

State Bench Hyderabad

Court No. Court I

APL/194/HYD/2026

KEDIA AGRO **.....Appellant**

Versus

PRINCIPAL COMMISSIONER HYDERABAD GST COMMISSIONERATE, PRINICIPAL COMMISSIONER, HYDERABAD GST COMMISSIONERATE & ORS. **.....Respondent**

Quorum

Hon'ble Sushil Kumar Sharma, Member(Judicial)
Hon'ble Duvvuri Krishna Srinivas, Member (Technical)

Counsel for Appellant
ARPAN BOHRA

Counsel for Respondent
SHRI GOURI SHANKAR
SHRI BENU GOPAL

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. : ZN360361026000382H **Date of Hearing: 28/09/2026**

Date of order : 27/10/2026

1.	GSTIN/Temporary ID/UIN - 36BKSPK4661G1ZR	
2.	Appeal Case Reference no. - APL/194/HYD/2026	Date - 23/04/2026
3.	Name of the appellant - KEDIA AGRO , kediaagro123@gmail.com , 9381876242	
4.	Name of the respondant - 1. Office of the Chief Commissioner of GST and Customs Hyderabad Zone , madalavd.g099201@gov.in , 9849247893	

	2. Principal Commissioner Hyderabad GST Commissionerate 3. Assistant Commissioner of Central Tax	
5.	Order appealed against - AD3608230058119	
	(5.1) Order Type - Refund Order	
	(5.2) Ref Number - ZD3610240051046	Date - 05/10/2024
6.	Personal Hearing - 27/10/2026 28/09/2026 16/09/2026 07/09/2026 16/07/2026	
7.	Status of Order under Appeal - Reject - Order under Appeal is annulled	
8.	Order in brief - The appeal filed by the Appellant is allowed and the impugned orders passed by the Original Adjudicating Authority (OAA) and the First Appellate Authority are hereby set-aside. The OAA is directed to reconsider and decide the Appellant's refund claim afresh which was rejected earlier, in accordance with law.	

Summary of Order

9.	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	0	0	0	0
(b) Interest	0	0	0	0	0	0	0	0	0	0
(c) Penalty	0	0	0	0	0	0	0	0	0	0

(d) Fees	0	0	0	0	0	0	0	0	0	0
(e) Others		0		0		0		0		0
(f) Refund		0		0		0		0		0

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	Rejection upheld holding that refund is inadmissible where application is filed post 18.07.2022 in terms of Notification No. 09/2022 and Circular No. 181/13/2022-GST.	

ORDER

FINAL ORDER 23/COURT-1/HYD/2026

Per Sushil Kumar Sharma, Member (Judicial)

1. The present appeal has been preferred by M/s Kedia Agro (Proprietor Harish Kedia) hereinafter referred to as "the Appellant" against order in appeal No. 55/2023/HYD-GST- JC, dated 28.03.2024 passed by the Joint Commissioner of Central Tax and GST (Appeals-1) Hyderabad, (hereinafter referred to as "First Appellate Authority" or "FAA") where the FAA upheld the order passed by the Assistant Commissioner, Mehdipatnam GST Division (hereinafter referred to as "original adjudicating authority" or "OAA")

   The OAA rejected the appellant's refund application for an amount of Rs.61,47,671/- claimed under category of accumulated Input Tax Credit (ITC) arising on account of an inverted tax structure for the period from 01.05.2020 to

31.03.2021 vide Refund Rejection order in form GST RFD-06 dated 23.05.2023 passed by the Assistant Commissioner, Mehdipatnam, Hyderabad.

Aggrieved by the order of the First Appellate Authority, the appellant has preferred the present appeal before this tribunal under Section 112 (3) (4) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the CGST Act").

Brief facts of the case:

2.0 The brief facts of the case, as submitted by the appellant before the OAA are as follows:

(i) M/s Kedia Agro, Proprietorship of Shri Harish Kedia (hereinafter referred to as "the appellant") is engaged in the business of manufacturing oils falling under HSN codes 15079010, 15119010 and 15159040, stated in the records.

(ii) It is the case of the appellant that it had filed a refund application of Rs.61,47,671/- under the category of accumulated Input Tax Credit (ITC) arising out on account of inverted tax structure, pertaining to the period from May, 2020 to March, 2021. The appellant stated that it procures raw materials and other inputs on some of which the rate of GST is higher rate of duty than the rate applicable to its outward supplies. Consequently, ITC accumulates in its electronic credit ledger on account of inverted tax structure. The appellant takes ITC on its inward supplies and discharges GST liability of its outward supplies.

(iii) It is further stated that the appellant has filed a refund application in form RFD-01 on 18.06.2022, claiming a refund of Rs.65,04,986/- for the period from 01.05.2020 to 31.03.2021. An acknowledgement in Form GST RFD-02 was issued on 30.06.2022 in respect of said application. Subsequently, the appellant withdrew the said refund application. Thereafter, the appellant filed a second refund application in Form GST RFD-01 on 25.03.2023 claiming a refund of Rs. 61,47,671/- for the same refund period i.e. 01.05.2020 to 31.03.2021. The acknowledgement in Form GST RFD-02 in respect of second application was issued on 06.04.2023.

(iv) The appellant further stated that it had furnished all the requisite documents alongwith the refund application. However, the OAA rejected the refund

application by relying upon notification No. 9/2022-CT, dated 13.07.2022 and CBIC circular No. 181/13/2022-GST dated 10.11.2022.

(v) Authorities took the view that the refund application had been filed after 18.07.2022 and was therefore, liable to be dealt with in the light of aforesaid notification and circular.

(vi) The appellant has further stated that present refund application pertains to the period from May, 2020 to March, 2021 and that the relevant GSTR-3B return for May 2020 was furnished on 26.06.2020. Accordingly, claims that the refund application was filed within the prescribed limit of two years under Section 54 of the CGST Act, 2017 read with Rule 89 of the CGST Act, 2017.

(vii) The appellant has submitted that all the requisite documents in support of the refund claim were furnished before the OAA. However, the adjudicating authority issued a Show Cause Notice in form GST RFD-08 dated 04.05.2023 for which the appellant submitted its reply in form GST RFD -09 on 19.05.2023.

(viii) Accordingly, vide OIO dated 23.05.2023, OAA rejected the appellant's refund claim amounting to Rs. 61, 47,671/- upholding that the claim was not admissible under the applicable provisions of Section 54 of the CGST Act, 2017 read with Rule 92(3) of the CGST Act, 2017 on the grounds recorded in the said order.

(ix) Aggrieved by the rejection of its refund claim, the appellant preferred an appeal before the First Appellate Authority. However, the FAA vide impugned order upheld the order passed by the OAA and rejected the appellant's claim for refund. Being aggrieved by the said order, the applicant has preferred present appeal before this Tribunal.

Reply of the Respondent:

3.0

(i) The respondent department filed its cross objections on 27.08.2026. The respondent in its reply, admitted factual averments contained in paragraphs 1 to 3 of the appeal in so far as they related to matters borne out by the record and the impugned order as well as factual averments contained in paragraph 4. The remaining averments are not admitted. Respondents submitted that

the appellant had initially filed refund application bearing ARN No. AA360622023069E, dated 18.06.2022 claiming a refund of Rs. 65,04,986/- for the period from May,2020 to March, 2021. However, the said application was withdrawn by the Appellant on 25.07.2022. Thereafter the appellant filed a fresh refund application bearing ARN No. AA360323036979U Dated 25.03.2023 claiming a refund of Rs.61,47,671/-.

(ii) Accordingly, the refund application under consideration was filed before the adjudicating authority after 18.06.2022. Respondent further submitted that the notification No. 09/2022/Central Tax (Rate), dated 03.07.2022 issued under the First proviso to Section 54(3) of the CGST Act, 2017 came into force w.e.f. 18.07.2022 and was prospective in nature.

(iii) However, according to the respondent, the fact that the notification operates prospectively, does not render the restriction prescribed therein inapplicable to the refund applications filed on or after 18.07.2022. In present case, since the refund application under consideration was filed on 25.03.2023, the restriction imposed by the aforesaid notification was applicable to the appellant's claim irrespective of the claim that the ITC had accumulated during the earlier tax period.

(iv) The respondent further stated in cross-objection that that this position has also been clarified by the CBIC vide circular No. 181/13/2022-GST, dated 10.11.2022. Accordingly, the respondent prayed that the appellant claim for refund was subject to the restrictions imposed by the aforesaid notification and that the impugned order rejecting the refund claim did not warrant interference by this tribunal.

(v) In response to the grounds raised by the appellant in the appeal, the respondent further submitted that the refund claim is required to be considered in accordance with the statutory provisions applicable to the refund application actually filed and adjudicated in the present case. The refund application under consideration was filed on 25.03.2023, whereas the original refund application dated 18.06.2022 had already been withdrawn by the applicant on 25.07.2022. The respondent submitted that the CBIC circular was issued to clarify the applicable legal position and to ensure uniform implementation of

the refund provisions. The appellant's contention that it had a absolute vested right to claim the refund was not admitted, as the refund under section 54(3) of the CGST Act, 2017, is subject to the conditions and restrictions prescribed under the Act, and the notification issued thereunder.

(vi) The respondent further stated in cross-objection that refund application on which the claim was adjudicated had been filed after the relevant restriction came into force.

(vii) Respondent also stated in cross-objection that Section 54 of the CGST Act, 2017, prescribes the limitation period for filing the refund application, but does not, by itself confer an unconditional right to refund, irrespective of the restrictions imposed under Section 54(3) of the said Act. It was further, stated that once the original refund application had been withdrawn, the subsequent application was required to be treated as a fresh application. Subsequently, the applicant could not claim the benefit of the final date of an earlier application that had already been withdrawn.

(viii) On this basis, the respondent maintained that the findings recorded by the original adjudicating authority on this issue were correct and justified.

(ix) The respondent further stated in cross-objection that the original adjudicating authority had duly considered the applicability of notification No. 9/2022-Central Tax (Rate) dated 13.07.2022 CBIC Circular NO. 181/13/2022-CGST, dated 10.11.2022 and the effect of the withdrawal of the earlier refund application. The first appellate authority also had examined the matter and upheld the findings of the original adjudicating authority.

(x) The respondent stated that the allegation of non-application of mind was not sustainable. The respondent also stated that a review petition had been proposed or filed before the Hon'ble Supreme Court in the matter and that the departmental decision concerning filing of the review petition was still pending consideration by the Board.

(xi) In view of the foregoing para-wise reply - the respondent prayed that the present appeal be dismissed and that uphold the refund rejection order dated 23.05.2023 and impugned Order In Appeal dated 28.03.2024 be upheld.

Reply of the Appellant to the Cross-Objections (Rejoinder)

4.0 The appellant filed a rejoinder to the cross-objections on dated 11.9.2026.

4.1 The appellant stated in its re-joinder that the respondent department itself had accepted that Notification No. 9/2022-Central Tax (Rate), dated 13.07.2022, came into force prospectively with effect from 18.07.2022. According to the appellant, the dispute, therefore, primarily concerns the subsequent filing of the refund application.

4.2. In this regard, the appellant relied upon and reiterated Grounds Nos. 6.2 and 9.1 of the memorandum of appeal, contending that Section 54(1) of the CGST Act, 2017, permits the filing of a refund application within the prescribed period of two years and that the present refund application was filed within the said period of limitation.

4.3 The appellant further relied upon Ground No. 10.1, read with Grounds Nos. 11.1, 11.2 and 12.2 to 12.5 of the memorandum of appeal, concerning subsequent judicial pronouncements and the legal effect of the relevant circular having been set aside or invalidated to the extent applicable.

The appellant stated in his re-joinder that the date of filing of the subsequent refund application, relied upon by the respondent solely on the basis of the aforesaid circular, could not, by itself, be determinative of the appellant's eligibility for refund of ITC accumulated during a tax period prior to 18.07.2022.

4.4 The Appellant stated in his re-joinder that the appellant had no absolute vested right to a refund, the refund claim was required to be examined in accordance with Section 54 of the CGST Act, 2017, the applicable statutory provisions, and the relevant judicial pronouncements.

4.5 Accordingly, the appellant maintained that the grounds raised in the cross-objections were not sustainable and reiterated its prayer for allowing the appeal. The learned counsel for the appellant, while filing a rejoinder to the cross-objections preferred by the respondents, prayed that the appeal be allowed.

4.6 The appellant also filed a paragraph-wise reply to the counter filed by the respondents on 19.09.2026. In the said reply, the appellant furnished a specific paragraph-wise response to the averments made in the respondents' counter and

reiterated and reaffirmed the facts and submissions already set out in the rejoinder filed earlier in response to the respondents' counter.

Points for Determination

5.0 Whether the Appellant's claim for refund of unutilized Input Tax Credit (ITC) accumulated on account of an inverted duty structure for the period from May 2020 to March 2021 can be denied solely on the ground that the refund application was filed after 18 July 2022?

5.1 Whether the restriction on refund introduced vide Notification No. 09/2022-Central Tax (Rate), dated 13 July 2022, read with Circular No. 181/13/2022-GST, dated 10 November 2022, is applicable to the Appellant's refund claim, particularly when the claim is stated to have been filed within the period of limitation prescribed under Section 54(1), read with Section 54(3), of the CGST Act, 2017?

5.2 Whether the adjudicating authority and the First Appellate Authority erred in rejecting the Appellant's refund claim by applying the aforesaid notification and circular?

5.3 Whether the impugned orders passed by the adjudicating authority and the First Appellate Authority are legally sustainable?

Submissions on Behalf of the Appellant

6.0 The learned counsel for the appellant, while advancing arguments on the grounds raised in the appeal, submitted that the appellant is engaged in the manufacture and supply of edible oils. The principal contention of the appellant is that it had accumulated unutilized input tax credit (ITC) on account of an inverted duty structure during the period from May 2020 to March 2021 and had claimed a refund of ₹61,47,671 under Section 54(3) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act"), before the original adjudicating authority within the prescribed period of limitation. According to the learned counsel, the entire refund claim pertains to the period preceding the introduction of the restriction under Notification No. 09/2022–Central Tax (Rate), dated 13.07.2022, which came into effect on 18.07.2022.

6.1 The learned counsel submitted that the substantial question of law arising for consideration in the present appeal is whether a refund of unutilized ITC accumulated on account of an inverted duty structure during a period prior to 18.07.2022 can be denied solely on the ground that the refund application was filed after the said date.

6.2 The learned counsel further submitted that Section 54(3) of the CGST Act specifically provides for the refund of unutilized ITC accumulated on account of an inverted duty structure, subject to the statutory conditions. It was argued that the refund claim must be examined with reference to the relevant tax period and the applicable statutory provisions. The appellant also relied upon the limitation prescribed under Section 54(1) of the CGST Act for filing a refund application and contended that the claim had been submitted within the prescribed period.

6.3 It was further contended that the ITC in question had accumulated during the period from May 2020 to March 2021, when the restriction subsequently introduced by Notification No. 09/2022–Central Tax (Rate) was not in force. According to the appellant, the entitlement to seek refund in respect of the accumulated ITC had arisen under the statutory provisions applicable to the relevant period, and such entitlement could not be defeated merely by the subsequent filing of the refund application or by a later administrative clarification.

6.4 The learned counsel further submitted that CBIC Circular No. 181/13/2022-GST, dated 10.11.2022, is administrative in nature and cannot override or curtail the rights available under the parent statute. It was argued that the circular could not validly extend the restriction introduced by the notification to ITC accumulated before 18.07.2022 merely because the refund application was filed on or after that date.

6.5 The learned counsel placed reliance upon the judgments of the Hon'ble High Court of Andhra Pradesh in Gemini Edibles and Fats India Limited and Priyanka Refineries Private Limited; the Hon'ble Gujarat High Court in Patanjali Foods Limited; the Hon'ble Rajasthan High Court in Shree Arihant Oil and General Mills; the Hon'ble Allahabad High Court in Vaibhav Edibles Private Limited; and the Hon'ble Calcutta High Court in Adani Wilmar Limited. On the strength

of these judicial precedents, the learned counsel submitted that the relevant tax period is material for determining refund eligibility, that Notification No. 09/2022–Central Tax (Rate) operates prospectively from 18.07.2022, and that the clarification contained in Circular No. 181/13/2022-GST cannot be applied to deny refund of ITC accumulated before that date merely because the application was filed subsequently.

6.6 The learned counsel particularly relied upon the judgment of the Hon'ble High Court of Andhra Pradesh in Gemini Edibles and Fats India Limited, wherein the Court held Circular No. 181/13/2022-GST to be unsustainable to the extent that it restricted refund eligibility by reference to the date of filing the application rather than the period of accumulation of ITC. It was further submitted that the Hon'ble Supreme Court dismissed the Revenue's special leave petitions arising from the said judgment on 09.05.2025.

6.7 The learned counsel also referred to the procedural history of the refund claim and submitted that an earlier refund application had been filed on 18.06.2022 but was subsequently withdrawn on account of a legal infirmity. Thereafter, a fresh application in FORM GST RFD-01 was filed on 25.03.2023 in respect of the ITC accumulated during the period from May 2020 to March 2021. The fresh application was acknowledged in FORM GST RFD-02. According to the learned counsel, the subsequent application was nevertheless rejected by the original adjudicating authority by relying upon the date of filing and the aforesaid notification and circular, without properly appreciating the period to which the accumulated ITC pertained.

6.8 In view of the foregoing submissions and the judicial precedents relied upon, the learned counsel for the appellant prayed that the impugned orders passed by the original adjudicating authority and the first appellate authority be set aside and that the appeal be allowed in accordance with law.

Submissions of the Respondent

7.0 The learned counsel appearing for the respondent submitted that there is no dispute regarding the prospective operation of Notification No. 09/2022-Central Tax (Rate), dated 13.07.2022, which came into effect from 18.07.2022.

However, it was contended that the said notification has no retrospective application in the present case.

7.1 The learned counsel primarily argued that the appellant filed the refund application in question on 25.03.2023, after the notification had come into effect. In this regard, reliance was placed on Circular No. 181/13/2022-GST, dated 10.11.2022. It was submitted that the restriction prescribed under the said notification would apply to all refund applications filed on or after 18.07.2022, whereas applications filed before that date would remain outside the scope of the said restriction.

7.2 The learned counsel further submitted that the prospective operation of the notification is not in dispute. The question for consideration in the present case, however, is whether a fresh refund application filed on 25.03.2023 can be considered without reference to a restriction that was already in force on the date of its filing.

7.3 The learned counsel further argued that Circular No. 181/13/2022-GST expressly clarifies that the restriction would apply to all refund applications filed on or after 18.07.2022 and would not apply to applications filed before that date. According to the learned counsel, the interpretation advanced by the appellant would require the importation of a qualification that is not contained in the said clarification.

7.4 With regard to the judicial precedents relied upon by the appellant, including Patanjali Foods and Gemini Edibles, the learned counsel submitted that judicial precedents must be considered in their respective factual and legal contexts. It was contended that the present case is materially distinguishable from those cases because the original refund application dated 18.06.2022 was voluntarily withdrawn on 25.07.2022, and a fresh application was filed only on 25.03.2023. Accordingly, the judicial precedents relied upon by the appellant could not be applied mechanically to the facts of the present case.

7.5 On the aforesaid grounds, the learned counsel for the respondent supported the impugned orders and submitted that the appeal was liable to be dismissed.

FINDINGS AND DECISION

8.0 We have heard the learned counsel appearing for the appellant as well as the respondent at length. We have also carefully perused the records of the case and considered the submissions advanced by both sides.

8.1 Upon perusal of the record, it is evident that the appellant, M/s Kedia Agro, through its proprietor, Harish Kedia, is engaged in the manufacture and supply of edible oils. In the course of its business, the appellant procures raw materials and other inputs on some of which the rate of GST is higher than the rate applicable to its outward supplies of finished goods. Consequently, the appellant accumulates input tax credit (ITC) on account of an inverted duty structure.

8.2 It is further evident from the record that, for the period from May 2020 to March 2021, the appellant initially filed an application in Form GST RFD-01 on 18.06.2022, claiming a refund of **₹65,04,986** on account of the accumulation of ITC due to the inverted duty structure. An acknowledgement in Form GST RFD-02 was issued in respect of the said application.

8.3 It is also evident that the appellant subsequently withdrew the aforesaid refund application dated 18.06.2022 and filed a fresh application in Form GST RFD-01 on 25.03.2023, claiming a refund of ₹61,47,671 for the same period, i.e., May 2020 to March 2021. An acknowledgement in Form GST RFD-02 was issued on 06.04.2023 in respect of the fresh application.

8.4 The record further reveals that the Assistant Commissioner of Central Tax, Mehdipatnam GST Division, Hyderabad, issued a show-cause notice in Form GST RFD-08, dated 04.05.2023, bearing ARN No. AA36032303697U, calling upon the appellant to show cause as to why its refund claim of ₹61,47,671 should not be rejected. The notice was issued under Rule 92(3) of the CGST Rules, 2017, read with Section 54 of the CGST Act, 2017, and the appellant was required to submit its reply within fifteen days.

8.5 In response to the aforesaid show-cause notice, the appellant submitted its reply in Form GST RFD-09 on 19.05.2023 before the Adjudicating Authority. The Adjudicating Authority considered the reply submitted by the appellant and thereafter proceeded to pass the order impugned in the present appeal.

8.6 The Adjudicating Authority, after considering the reply and the material available on record, passed the impugned order bearing ARN No. AA36032303697U, dated 23.05.2023, holding that the appellant had filed the refund application after 18.07.2022. Accordingly, the Adjudicating Authority found the refund claim liable to be rejected under Rule 92(3) of the CGST Rules, 2017, read with Sections 74 and 54 of the CGST Act, 2017, and rejected the appellant's refund claim.

8.7 Being aggrieved by the order passed by the Original Adjudicating Authority, the appellant preferred an appeal bearing Appeal No. 55/2023-Hyderabad-GST-JC before the First Appellate Authority, namely, the Joint Commissioner of Central Tax (Appeals-I), Hyderabad.

8.8 The record further reveals that the First Appellate Authority, after considering the submissions advanced by the appellant and the respondent, the documents placed on record, and the findings recorded by the Original Adjudicating Authority, concurred with the conclusions arrived at by the Adjudicating Authority. Accordingly, the First Appellate Authority rejected the appellant's appeal by the impugned appellate order.

8.9 Being aggrieved by the aforesaid orders passed by the Adjudicating Authority and the First Appellate Authority, the appellant has preferred the present appeal before this Tribunal.

8.10 Notification No. 09/2022-Central Tax (Rate), dated 13.07.2022, issued at New Delhi, and CBIC Circular No. 181/13/2022-GST, dated 10.11.2022, contain the following relevant provisions.

Notification No. 09/2022-Central Tax (Rate), New Delhi, the 13th July, 2022

G.S.R. (E).- In exercise of the powers conferred by clause (ii) of the proviso to sub-section (3) of section 54 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No. 5/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 677(E), dated the 28th June, 2017, namely :-
In the said notification,

(i) in the opening paragraph, in the proviso, in clause (i), for the words and figure "serial numbers 1", the words, figure and letters "serial numbers 1AA" shall be substituted;

(ii) in the TABLE, S. No. 1 shall be re-numbered as S. No. 1AA, and before S. No. 1AA as so re-numbered, the following serial numbers and entries shall be inserted, namely :-

1	*2*	*3*
"1A .	*1507*	*Soya-bean oil and its fractions, whether or not refined, but not chemically modified*
1B.	*1508*	*Ground-nut oil and its fractions, whether or not refined, but not chemically modified.*
1C.	*1509*	*Olive oil and its fractions, whether or not refined, but not chemically modified.*
1D.	*1510*	*Other oils and their fractions, obtained solely from olives, whether or not refined, but not chemically modified, including blends of these oils or fractions with oils or fractions of heading 1509*
1E.	*1511*	*Palm oil and its fractions, whether or not refined, but not chemically modified.*
1F.	*1512*	*Sunflower-seed, safflower or cotton-seed oil and fractions thereof, whether or not refined, but not chemically modified.*
1G.	*1513*	*Coconut (copra), palm kernel or babassu oil and fractions thereof, whether or not refined, but not chemically modified.*
1H	*1514*	*Rape, colza or mustard oil and fractions thereof, whether or not refined, but not chemically modified.*
1I.	*1515*	*Other fixed vegetable or microbial fats and oils (including jojoba oil) and their fractions, whether or not refined, but not chemically modified.*
1J.	*1516*	*Vegetable fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinised, whether or not refined, but not further prepared.*
1K.	*1517*	*Edible mixtures or preparations of vegetable fats or vegetable oils or of fractions of different vegetable fats or vegetable oils of this Chapter, other than edible fats or oils or their fractions of heading 1516*

1L.	*1518*	*Vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516*
1M.	*2701*	*Coal; briquettes, ovoids and similar solid fuels manufactured from coal*
1N.	*2702*	*Lignite, whether or not agglomerated, excluding jet*
1O.	*2703*	*Peat (including peat litter), whether or not agglomerated"*

2. This notification shall come into force on the 18th day of July, 2022.

8.11 Circular No. 181/13/2022-GST

F. No. CBIC-20021/4/2022
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing
New Delhi, Dated the 10th November, 2022

Clarification on refund related issues-reg.

Attention is invited to sub-section (3) of section 54 of CGST Act, 2017, which provides for the refund of unutilized input tax credit in cases where credit is accumulated on account of rate of tax of inputs being higher than the rate of tax on output supplies i.e. on account of inverted duty structure. Sub-rule (5) of rule 89 of CGST Rules, 2017 prescribes the formula for grant of refund in cases of inverted duty structure. Vide Notification No. 14/2022-Central Tax dated 05.07.2022, amendment has been made in the formula prescribed under sub-rule (5) of rule 89 of the CGST Rules, 2017. Further, vide Notification No. 09/2022-Central Tax (Rate) dated 13.07.2022, which has been made effective from 18.07.2022, the restriction has been placed on refund of unutilised input tax credit on account of inverted duty structure in case of supply of certain goods falling under chapter 15 and 27.

2. Representations have been received from the trade and the field formations seeking

clarification on various issues pertaining to the implementation of the above notifications. In order to clarify the issues and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "CGST Act"), hereby clarifies the issues as under:

S. No.	*Issue*	*Clarification*
1	*Whether the formula prescribed under sub-rule (5) of rule 89 of the CGST Rules, 2017 for calculation of refund of unutilised input tax credit on account of inverted duty structure,* *as amended vide Notification No. 14/2022-Central Tax dated 05.07.2022, will apply only to the refund applications filed on or after 05.07.2022, or whether the same will also apply in respect of the refund applications filed before 05.07.2022 and pending with the proper officer as on 05.07.2022?*	*Vide Notification No. 14/2022-Central Tax dated 05.07.2022, amendment has been made in sub-rule (5) of rule 89 of CGST Rules, 2017, modifying the formula prescribed therein. The said amendment is not clarificatory in nature and is applicable prospectively with effect from 05.07.2022. Accordingly, it is clarified that the said amended formula under sub-rule (5) of rule 89 of the CGST Rules, 2017 for calculation of refund of input tax credit on account of inverted duty structure would be applicable in respect of refund applications filed on or after 05.07.2022. The refund applications filed before 05.07.2022 will be dealt as per the formula as it existed before the amendment made vide Notification No. 14/2022-Central Tax dated 05.07.2022.*
2	*Whether the restriction placed on refund of unutilised input tax credit on account of inverted duty structure in case of certain goods falling under chapter 15 and 27 vide Notification No. 09/2022-Central Tax (Rate) dated 13.07.2022, which has been made effective from 18.07.2022, would apply to the refund applications pending as on 18.07.2022 also or whether the same will apply only to the refund applications filed on or after 18.07.2022 or whether the same will be applicable only to*	*Vide Notification No. 09/2022-Central Tax (Rate) dated 13.07.2022, under the powers conferred by clause (ii) of the first proviso to sub-section (3) of section 54 of the CGST Act, 2017, certain goods falling under chapter 15 and 27 have been specified in respect of which no refund of unutilised input tax credit shall be allowed, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on the output supplies of such specified goods (other than nil rated or fully exempt supplies). The said notification has come into force with effect from 18.07.2022. The restriction imposed vide Notification*

	refunds pertaining to prospective tax periods?	*No. 09/2022-Central Tax (Rate) dated 13.07.2022 on refund of unutilised input tax credit on account of inverted duty structure in case of specified goods falling under chapter 15 and 27 would apply prospectively only. Accordingly, it is clarified that the restriction imposed by the said notification would be applicable in respect of all refund applications filed on or after 18.07.2022, and would not apply to the refund applications filed before 18.07.2022.*

3. *It is requested that suitable trade notices may be issued to publicize the contents of this Circular.*

4. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board.

9.0 On perusal of Notification No. 09/2022-Central Tax (Rate), dated 13.07.2022, it is evident that the said notification came into force with effect from 18.07.2022. Further, CBIC Circular No. 181/13/2022-GST, dated 10.11.2022, expressly provides as follows:

"The restriction imposed by Notification No. 09/2022-Central Tax (Rate), dated 13.07.2022, on refund of unutilized input tax credit on account of inverted duty structure in case of specified goods falling under Chapters 15 and 27 would apply prospectively only. Accordingly, it is clarified that the restriction imposed by the said notification would be applicable in respect of all refund applications filed on or after 18.07.2022 and would not apply to refund applications filed before 18.07.2022."

Thus, it is evident that the restriction imposed by the aforesaid notification on refund of unutilized Input Tax Credit accumulated on account of an inverted duty structure in respect of specified goods falling under Chapters 15 and 27 operates prospectively.

The aforesaid circular further clarifies that the restriction imposed by the notification applies to refund applications filed on or after 18.07.2022 and does not apply to refund applications filed before that date.

9.1 Accordingly, it is clear that CBIC Circular No. 181/13/2022-GST, being clarificatory in nature, clarifies the date from which the restriction imposed by the notification is applicable. The restriction introduced by the notification is prospective and does not extend to refund applications filed before 18.07.2022.

9.2 The learned counsel for the Appellant submitted that the Appellant had initially filed a refund application in Form GST RFD-01 on 18.06.2022, claiming a refund of unutilized Input Tax Credit accumulated on account of the inverted duty structure for the period from 01.05.2020 to 31.03.2021. The corresponding acknowledgement in Form GST RFD-02 was also issued.

9.3 The learned counsel further submitted that the aforesaid refund application was subsequently withdrawn and that a fresh refund application in Form GST RFD-01, bearing ARN, was filed on 25.03.2023 for the same period, claiming a refund of ₹61,47,671.71. The corresponding acknowledgement in Form GST RFD-02 was issued on 06.04.2023.

9.4 The principal contention of the learned counsel is that the refund claim pertains to unutilized Input Tax Credit accumulated on account of the inverted duty structure. It was argued that, upon a conjoint reading of Notification No. 09/2022-Central Tax (Rate), dated 13.07.2022, and CBIC Circular No. 181/13/2022-GST, dated 10.11.2022, it is clear that the restriction imposed by the notification operates prospectively. According to the clarification contained in the circular, the restriction applies to refund applications filed on or after 18.07.2022 and does not apply to applications filed before that date.

9.5 The learned counsel contended that the Original Adjudicating Authority and the First Appellate Authority rejected the Appellant's refund claim solely on the ground that the subsequent refund application had been filed after 18.07.2022. It was submitted that the authorities failed to properly consider the prospective operation of the notification and the clarification contained in the circular while deciding the refund claim.

9.6 The learned representative of the Respondent-Department submitted that the Appellant had initially filed a refund application on 18.06.2022, claiming ₹65,04,486 in respect of unutilized Input Tax Credit accumulated on account of the inverted duty structure for the period from 01.05.2020 to 31.03.2021. The said

application was subsequently withdrawn, and a second refund application was filed on 25.03.2023 for the same period.

9.7 The principal contention of the Respondent-Department is that the refund application dated 25.03.2023 was filed after 18.07.2022 and, therefore, the restriction imposed by Notification No. 09/2022-Central Tax (Rate), dated 13.07.2022, read with CBIC Circular No. 181/13/2022-GST, dated 10.11.2022, was applicable to the Appellant's claim. It was accordingly submitted that the Original Adjudicating Authority had committed no error in rejecting the refund claim and that the First Appellate Authority had also rightly upheld the order of the Original Adjudicating Authority.

9.8 During the course of arguments, the learned counsel for the Appellant also drew the attention of the Bench to the judgment of the Hon'ble High Court of Andhra Pradesh at Amaravati in M/s Gemini Edibles and Fats India Limited v. Assistant Commissioner of Central Tax, in the writ petitions stated to have been numbered W.P. Nos. 5253 of 2023 and 12485, 12487 and 12488 of 2024, decided on 29.01.2025. The learned counsel relied upon the said judgment in support of the grounds and submissions raised in the present appeal.

9.9 The further submissions of the learned counsel concerning the facts, findings and directions contained in the aforesaid judgment are to be considered in the following paragraphs.

9.10 The Hon'ble High Court of Andhra Pradesh, in M/s Gemini Edibles and Fats India Limited v. Assistant Commissioner of Central Tax, held, in substance, that where the relevant notification had been made effective from 18.07.2022, any Input Tax Credit accumulated prior to that date on account of the difference between the tax paid on inputs and the tax payable on outward supplies could be claimed as a refund by a registered person by filing an application under Section 54 of the CGST Act, 2017.

Hon'ble High Court of Andhra Pradesh AT AMARAVATI for COMMERCIAL TAX WRIT PETITION NO: 12485/2024 Between: Gemini Edibles And Fats India Limited AND The Assistant Commissioner Of Central Taxes and Others judgement is reproduced below:

Paragraphs 14 to 20 of the above Judgement are reproduced below for ready reference.

14." Section 54 of the CGST Act states that any person claiming refund of any tax and interest, if any, may make an application before the expiry of two years from the relevant date in such form as may be prescribed. Sub-section (3) of Section 54 reads as follows:

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

Provided that no refund of unutilized 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 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: 1 AIR 1978 SC 851 Provided further that no refund of unutilized input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty: Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

15. As per sub-section (3) of Section 54, any registered person who is supplying any kind of goods would be entitled for refund of input tax credit once the rate of tax on inputs is higher than the rate of tax on the output supply made by him. However, the very same provision also stipulates that the Government, on the recommendations of the council, can notify goods which would not be eligible for such refund.

16.In the present case, the Government, by Notification No.5/2017 dated 28.07.2017, had initially set out a list of goods which would not be eligible for claiming refund under Section 54 of the CGST Act. Subsequently, this list was increased by inclusion of various other

goods, by Notification No.9/2022 dated 13.07.2022. The goods, so included, were various kinds of edible oils and specialty fats apart from coal, lignite etc. This notification came into force on 18.07.2022.

17.In view of the specific stipulation that the Notification comes into effect only from 18.07.2022, it would clearly mean that input tax credit which accumulates in the tax credit ledger of the registered person, on account of the mismatch between the input tax and the output tax, before 18.07.2022, can be recovered by the registered person, by way of an application under 10 Section 54 of the CGST Act. This would not mean that, an application cannot be made after 18.07.2022. Restriction would apply only to the extent of input tax credit arising after 18.07.2022.

18.In the impugned circular, while clarifying that the notification is prospective, the Government went on to state that applications cannot be made after 18.07.2022. This Court finds that the said clarification is neither logical nor in accordance with the understanding of law in such cases.

19.This Court would hold that once a stipulation is made that the notification, in question, operates from 18.07.2022, it would mean that any input tax credit which arose on account of the mismatch between the input tax and the output tax, prior to 18.07.2022, can always be recovered by the registered person, by making an application under Section 54 of the CGST Act.

20 In the circumstances, we are of the opinion that Circular No.181/13/2022-GST, dated 10.11.2022, would have to be struck down, to the extent of the clarification that the restriction imposed by the Notification, dated 13.07.2022, would be applicable in respect of all refund applications filed on or after 18.07.2022" .

10.0 In the above judgement, Hon'ble High Court of Andhra Pradesh directly addressed the question of whether refund of ITC accumulated during the periods prior to 18.07.2022 could be denied on the ground that the refund application

was filed after 18.07.2022. After careful examination of concerned notification and circular in their proper legal context, Hon'ble Division Bench held that restrictions imposed by the above referred circular, would apply only to the extent of ITC arriving after 18.07.2022. The court found that, the said clarification is neither logical nor in accordance with the understanding of law in such case. In para 20 of judgement (supra) the Hon'ble High Court struck down the circular, to the extent of clarification that the restriction imposed by the notification 09/2022 dated 13.07.2022, would be applicable in respect of all refund applications filed on or after 18.07.2022, before setting aside refund rejection orders.

10.1 Further, the above said judgement was challenged by Revenue authorities before the Hon'ble Supreme Court by way of Special Leave Petition (s), stated to bear C.Nos. 12495-12498 of 2025, which were dismissed on 09.05.2025.

10.2 In case of Patanjali Foods Ltd. Vs UOI (C/SCA/17298/2024 DB Gujarat HC) dated 12.02.2025, on identical issue, it was held at para 11.6, that the restrictions contained in the impugned circular dated 10.11.2022 " is wholly arbitrary, discriminatory and ultra-vires to Sec.54 of GST Act as well as violating Article 14 of Constitution of India". Further, held that the impugned circular has created an artificial class amongst assesses based on the date of filing of refund application.

10.3 Similar views were held by Division Bench of Hon'ble High Court of Rajasthan (Jodhpur) in Shree Arihant Oil and General Mills V. UOI, civil writ petition No. 2932/2023, decided on 08.09.2025, referring to Gemini Edibles and Fat India Ltd (Supra) and Patanjali Foods Ltd (Supra) Judgements.

10.4 In case of M/s Vaibhav Edible Private Ltd V. State of UP & 2 others (writ tax 1060 of 2024 DB, High Court Allahabad decided on 13.11.2025) the Hon'ble Division Bench of Allahabad HC, on identical issue, in a batch of four writ petitions held that, Revenue did not advance any submissions that could warrant a view different from that taken by the Andhra Pradesh High Court (supra) and allowed the appeal.

10.5 Relying on above four High Court judgements (supra), Calcutta High Court in WPA 27066 of 2024 (dated 25.02.2026), in case of M/s Adani Wilmar Ltd. Vs

Assistant Commissioner of State Tax & Ors, held that there is no good reason for this court to take a divergent view.

10.6 Revenue in its cross objections and submissions, stated that they are intending to file review petition against the dismissal by Hon'ble Supreme Court in case of Gemini Edibles case (supra), but no documentary evidence was placed before this Bench.

Conclusions

11.0

(i) The second refund application pertaining to the period from May, 2020 to March 2021 was filed on 25.03.2023. It is within the stipulated period of two years under Section 54 (3) of the GST Act read with Rule 89 of the CGST Rules 2017.

(ii) The lower authorities rejected the refund application on the ground that it was filed after 18.07.2022 and restrictions imposed vide circular dated 10.11.2022 are applicable.

(iii) Though the concerned notification and circular stated that they are prospective in application, the authorities have interpreted that they are applicable to the ITC accumulated for the period prior to 18.07.2022.

(iv) Though the notification dated 13.07.2022 did not contain any stipulation on restricting the right to claim refund for application filed after certain date, the circular appears to have restricted the right for claims filed after 18.07.2022 for the credit accrued in the periods before that date.

(v) ITC is a right accrues to the assessee on the date when dutiable goods / services were bought in the course of furtherance of business. Such a right can't be curtailed by the interpreting an executive circular by giving it retrospective effect, without any statutory / legal backings.

(vi) As discussed in para 9 & 10 (supra), various Hon'ble High Courts have struck down the restrictions contained in para 2 of impugned circular dated 10.11.2022 and some have declared them as ultra-vires.

12.0 From the above discussions, it is evident that the findings in the impugned order are solely based on the restrictions imposed at para 2 of the circular dated 10.11.2022. That impugned para was struck down by Division Benches of various Hon'ble High Courts as discussed above. There is no documentary evidence produced by Revenue about filing any review / appeal in Hon'ble Supreme Court. After due consideration of all facts of the case and respectfully following the judicial decisions (supra), we are of the opinion that the impugned order can't be sustained. Accordingly, the impugned order rejecting the refund claim is set aside with consequential relief. The original Adjudicating Authority is directed to reconsider and decide the Appellant's refund claim afresh in accordance with law and applicable judicial precedents. With regard to claim of interest from the applicable date and as per law, by the appellant, the same may be examined as per legal provisions during the refund proceedings as ordered above.

12.1 The points of determination in paragraph 13 above are answered accordingly.

12.2 Accordingly, the appeal filed by the Appellant is allowed and the impugned orders passed by the Original Adjudicating Authority (OAA) and the First Appellate Authority are hereby set-aside. The OAA is directed to reconsider and decide the Appellant's refund claim afresh which was rejected earlier, in accordance with law.

12.3 On the above terms, the appeal is disposed of.

12.4 No order as to costs.

(The final orders was pronounced in open court on 27.10.2026)

(Sushil Kumar Sharma)

(Duvvuri Krishna Srinivas)

Dated: 27.10.2026