Case Citation: (2026) taxcode.in 1683 HC
JUDGMENT DATED: 09/10/2026

NEUTRAL CITATION
2026:GUJHC:64406-DB

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 5788 of 2026

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE A.S. SUPEHIA

and

HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

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Approved for Reporting	Yes	No
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M/S. SUDEEP INDUSTRIES
Versus
UNION OF INDIA & ORS.

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Appearance:
MS.HITEASHI DESAI for MR.ANANDODAYA S MISHRA(8038) for the Petitioner(s) No. 1
MR PRADIP D BHATE(1523) for the Respondent(s) No. 1
MR UTKARSH R SHARMA(6157) for the Respondent(s) No. 2,3,4,5,6

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CORAM: **HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 09/10/2026
ORAL JUDGMENT

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

1. In the present writ petition, the petitioner has prayed for quashing and setting aside the impugned order-in-original in Form GST RFD-06 dated 18.12.2025 passed by the respondent no.5 and

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further directions sought for directing the respondents to pay the refund.

2. The petitioner holds various Advance Authorizations for the procurement of raw materials meant for use in export goods and they are exempt from customs duty and Integrated Goods and Services Tax (for short 'IGST') in terms of Notification No.79/2017-Customs dated 13.10.2017. The petitioner is claiming refunds under Rule-89(4) or under Rule 96(10) of the Central Goods and Services Tax Rules (for short 'the CGST Rules, 2017'), as applicable. Vide letter dated 28.06.2023 and then respondent No.6 sought details of IGST refunds claimed under Rule 96(10) of the CGST Rules, 2017. Accordingly, the petitioner responded vide detailed replies dated 09.10.2023, 30.10.2023, 06.03.2024 and 28.03.2024, disclosing Rs.2,79,70,923/- as repayable against exports utilizing Advance Authorization imports.

3. It is the case of the petitioner that an amount of Rs.84,02,935/- relating to Financial Year (for short 'F.Y.') 2018-19 stands re-credited to the petitioner's Electronic Credit Ledger vide PMT-03/3A order dated 26.02.2024, issued under Rule 86(4A) of the CGST Rules, 2017, read with CBIC Circular No.174/06/2022-GST dated 06.7.2022.

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However, for the F.Ys. 2019-20 to 2021-22, no such re-credit was granted, since interest and penalty payments were made subsequently, as the tax itself was not payable. It appears that thereafter, since the issues were pending before the various jurisdictional High Courts and the same got settled by this Court in the case of *Addwrap Packaging Private Limited versus Union of India (2025) 31 CENTAX 274 (Guj.)*, the petitioner, vide letter dated 20.08.2025, claimed refund in light of the judicial precedent and the omission of Rule 96(10) of the CGST Rules, 2017 vide Notification No.20/2024-Central Tax dated 08.10.2024. The claim application was submitted by the petitioner on 30.09.2025. After the deficiency memo was raised on 15.10.2025, the petitioner again filed a refund application on 17.10.2025 and final claim on 19.10.2025, specifically seeking refund of the un-recredited amount comprising IGST of Rs.1,95,67,986/-, interest of Rs.68,74,547/- and penalty of Rs.8,40,294/-.

4. The respondent issued a show cause notice under RFD-08 on 03.12.2025, proposing to reject the refund claim for Rs.2,72,82,827/-. The petitioner accordingly filed detailed reply on 18.12.2025 and requested for personal hearing. However, by the order in Form RFD-06, the respondent No.5 on the

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very same day, i.e. on 18.12.2025 summarily rejected the claim, which has constrained the petitioner to file the present petition.

5. At the outset, learned advocate Ms.Hiteashi Desai for learned advocate Mr.Anandodaya Mishra appearing for the petitioner has submitted that the issue raised in the present petition is no more *res integra* in view of the decisions of this Court in the cases of *MAC Industry vs. Union of India, (2026) 46 CENTAX 232 (Guj.)*, *Maldeep Catalysta Pvt. Ltd. vs. Union of India, (2026) 46 CENTAX 11 (Guj.)* and the decision of the Supreme Court in the case of *Goodluck India Ltd. versus Union of India, (2026) 45 CENTAX 171 (SC)*.

6. Thus, the initial view taken by this Court in the case of ***Addwrap Packaging Private Limited (supra)*** has thereafter been followed, and ultimately, the Supreme Court in the case of ***Goodluck India Limited (supra)***, on the effect of the omission of Rule-96(10) of the CGST Rules, 2017, having been declared as prospective, it is held that the taxpayer is entitled to the refund claim.

7. Learned Senior Standing Counsel, Mr.Utkarsh Sharma, is unable to dispute that the petitioner is entitled to refund claim in view of the settled

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legal precedent and due to omission of Rule-96(10) of the CGST Rules, 2017 with prospective effect.

8. It is not in dispute that by the Notification No.20/2024-CT dated 08.10.2024, the Central Government omitted Rule-96(10) of the CGST Rules, 2017. The Supreme Court in the case of ***Goodluck India Ltd. (supra)*** has declared the same to have a prospective effect by holding thus:

> *"5. The learned Senior Counsel appearing for the respondents on the other hand, relies on Kolhapur Canesugar Works Ltd v. Union of India [(2000) 2 SCC 536 (S.C.)= 2000 (119) E.L.T.0257(S.C.)]. Therein the question raised was the refund demanded under Rule 10A of the Central Excise Rules, 1944, which though prevalent at the time of issuance of show cause notice, before the final order was passed, it stood omitted. The newly brought in rule did not have provision for enforcing such refund. It was argued for the Department that the introduction of Section 11A, created a fiction by virtue of which proceedings under Rule 10 are deemed to be proceedings under Rule 11A of the Act. The trite principle in common law that the effect of repealing a statute or deleting a provision, is to obliterate it from the statute book, as completely as if it had never existed was highlighted by this Court. An exemption, as engrafted by the provisions of Section 6 of the General Clauses Act; though Section 6 was held to be not applicable in the given circumstances of omission of a rule, should have been incorporated as a saving clause to facilitate continuance of pending proceedings despite the omission, failing which all actions would come to a stop when the omission is given effect. It was held so under paragraph 36*
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> *"36. In the case in hand Rule 10 or Rule 10-A is neither a "Central Act" nor a "regulation" as defined in the Act. It may be a Rule under Section 3(51) of the Act. Section 6 is applicable where any Central Act or regulation made after commencement of the General Clauses Act repeals*

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any enactment. It is not applicable in the case of omission of a "rule".

6. It was held by the Constitution Bench that if on omission of a rule, there was a provision for continuance of the proceedings already initiated or if by incorporation of a provision in the statute there was a legal device adopted, creating a fiction by virtue of which proceedings under the omitted rule could be continued; only then proceedings initiated under the omitted rule could be continued.

7. The Constitution Bench decision applies squarely in the above case. We may also observe that even going by the recommendations as extracted hereinabove, sub-rule (10) of Rule 96 was omitted because it was 'leading to unnecessary complications without any intended benefit being served' (sic). As fairly submitted by the learned ASG the legislature has not brought in any saving clause or a sunset clause, when sub-rule (10) of Rule 96 was omitted. The recommendation that the omission should be prospective is also advisory in nature and does not bind the rule making authority. The intention to omit the rule without any saving clause was to bring to an end, the unnecessary complications once and for all and the intention cannot be to keep alive the unnecessary complications insofar as the pending proceedings are concerned.

8. We find no good reason to interfere with the well-reasoned judgment of the High Court. We are told that there are many proceedings pending before the various High Courts and conflicting decisions have also been passed. We hope that such proceedings would get closure with this judgment.

9. The Registry is directed to send a copy of this order to all the High Courts. The Registry of the High Courts will ensure that the cases relating to the subject issue of omission of Rule 96(10) would be placed before the Courts having roster, after taking appropriate orders from the Hon'ble Chief Justice of the respective High Courts, expeditiously to bring quietus in the subject litigation."

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9. By following the aforesaid decisions, this Court in the cases of ***MAC Industry (supra)*** as well as ***Maldeep Catalysta Private Limited (supra)*** has allowed the writ petition, and hence, in view of the settled legal precedent on the issue raised in the present petition, the writ petition is ***allowed***. The impugned order-in-original dated 18.12.2025 is hereby quashed and set aside. The respondents are further directed to process the refund claim within a period of ***12 weeks*** from the date of receipt of the present order.

Sd/-

(A. S. SUPEHIA, J)

Sd/-

(VAIBHAVI D. NANAVATI,J)

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