

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 6718 of 2025**

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MAXWELL ENGINEERING SOLUTIONS PRIVATE LIMITED**Versus****ASSISTANT COMMISSIONER OF CENTRAL GST AND EXCISE**

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Appearance:**MR HIRAK R SHAH(12499) for the Petitioner(s) No. 1****MR. ARCHIT P JANI(7304) for the Respondent(s) No. 1**

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CORAM:HONOURABLE MR. JUSTICE BHARGAV D. KARIA**and****HONOURABLE MR. JUSTICE PRANAV TRIVEDI****Date : 04/07/2025****ORAL ORDER****(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)**

1. Heard learned advocate Mr.Hirak R. Shah for the petitioner and learned advocate Mr.Archit P. Jani for the respondent.

2. By this petition under Article 226 of the Constitution of India, the petitioner has prayed for the following reliefs :

"A. YOUR LORDSHIP may be pleased to allow the present Petition;

B. YOUR LORDSHIPS may be pleased to



issue a writ of mandamus or in the nature of mandamus or any other appropriate writ, orders or directions quashing and setting aside the impugned order dated 29.01.2025 passed under section 107 of the Act and marked as Annexure-A;

C. YOUR LORDSHIPS may be pleased to direct the refund sanctioning authority to consider the matter based on the facts and documents submitted and allow due refund amounting to Rs. 2,33,466/-;

D. YOUR LORDSHIPS may be pleased to pass any further relief deemed just and proper to be granted."

3. The brief facts of the case are as under :

3.1. The petitioner is engaged in the business of providing Engineering Parts for Plastic Processing Machinery for manufacturing of working rubber/plastic products with its



principal place of business at Vadodara.

3.2. During the period November, 2023, the petitioner exported goods to three Countries namely USA, Germany and Israel upon payment of Integrated Goods and Service Tax (for short 'the IGST'). The total IGST amount paid on export of the goods for the month of November, 2023 was Rs.2,33,466/-.

3.3. The petitioner thereafter filed a refund claim of the IGST paid under Rule 96 of the Central Goods and Services Tax Rules, 2017 (for short 'the CGST Rules') as the exports was a zero rated supply.

3.4. The petitioner received a notice in Form GST RFD-08 dated 14th February, 2024 to submit the details of GST invoices/bills of



entries on the basis of which the ITC availed and utilised for payment IGST at the time of export of goods as it was suspected that the petitioner had availed the benefit of Notification No.79/2017-Customs dated 13.10.2017.

3.5. The petitioner furnished detailed reply dated 17th February, 2024 in Form GST RFD-09 contending that the petitioner had not violated any of the conditions stipulated in Rule 96(10) of the CGST Rules and furnished all the relevant documents such as invoices, bill of entry, packing list details etc.

3.6. The respondent however, by the order dated 26th February, 2024 rejected the refund claim on the ground that the petitioner had availed the benefit of Notification



No.79/2017-Customs dated 13.10.2017 resulting into violation of the Rule 96(10) of the CGST Rules.

3.7. Being aggrieved, the petitioner preferred an Appeal under Section 107 of the Central Goods and Services Tax Act, 2017 (for short 'the CGST Act'). The Appellate Authority by the impugned order dated 29th January, 2025 rejected the Appeal invoking the provisions of Rule 112 of the CGST Rules while not permitting the petitioner to produce additional evidence as the petitioner submitted copies of EPCG Script and Bank Guarantee before the Appellate Authority which were not submitted before the Adjudicating Authority who rejected the refund application.

4.1. Learned advocate Mr.Hirak Shah for the



petitioner submitted that the petitioner has not violated the provisions of Rule 96(10) of the CGST Rules and the petitioner is eligible for the refund inasmuch as, the goods imported by the petitioner by availing the benefit of EPCG Scheme as per the Circular No.79/2017 are capital goods and therefore, the same would fall under the exclusion part of the provisions of Rule 96(10) of the CGST Rules.

4.2. It was submitted that the petitioner provided the details of EPCG Script and the Bank Guarantee showing that the petitioner imported capital goods availing the benefit of Notification No.79/2017, however, the same were rejected by the Commissioner (Appeals) invoking Rule 112 of the CGST Rules. It was submitted that Rule 112 of the CGST Rules



provides for production of additional evidence before the Appellate Authority other than the evidence produced during the course of the proceedings before the Adjudicating Authority and such production cannot be permitted if such additional documents fall within Clauses (a) to (d) of the Rule 112 of the CGST Rules.

4.3. It was submitted that the petitioner was never called upon to produce such EPCG Certificate and therefore, none of the Clauses (a) to (d) of the Rule 112 of the CGST Rules is applicable in the facts of the case and the Appellate Authority ought to have considered the additional evidence placed on record by the petitioner during the Appellate Proceedings.

4.4. It was therefore submitted that the



impugned order passed by the Appellate Authority may be quashed and set aside and the matter may be remanded back to the Appellate Authority to consider the additional evidence as it is not in dispute that the petitioner had imported capital goods under the Notification No.79/2017 which is excluded from the purview of the application of the provisions of Rule 96(10) of the CGST Rules.

5. On the other hand, learned advocate Mr.Archit Jani for the respondent submitted that the petitioner has admittedly not produced the EPCG Certificate during the adjudication proceedings before the respondent and therefore, the refund claim was rightly rejected. It was further pointed out that the Appellate Authority has rightly invoked the provisions of Rule 112 of the CGST Rules as



the petitioner has failed to point out that, in the facts of the case, Clauses (a) to (d) of the Rule 112 of the CGST Rules are not applicable and as such, the Appellate Authority has rightly not considered the additional evidence produced by the petitioner in form of EPCG Certificate.

6. Having heard the learned advocates for the respective parties and considering the facts of the case, it is not in dispute that the petitioner has filed the reply to provide the details called for in the show-cause notice in Form GST RFD-08 by submitting ITC Details of November, 2023 and Invoices for export of goods. It is also apparent from the notice dated 14.02.2024 issued by the respondent that the petitioner was not called upon to provide the EPCG Certificate. The petitioner

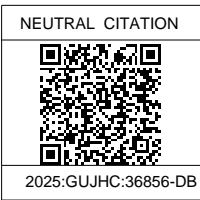


therefore, during the course of the appellate proceedings, has provided the EPCG Certificate and therefore, it cannot be said that, in the facts of the case, any of the Clauses (a) to (d) of Rule 112 of the CGST Rules would be applicable. Rule 112(1) of the CGST Rules reads as under :

"Rule 112. Production of additional evidence before the Appellate Authority or the Appellate Tribunal-

(1) The appellant shall not be allowed to produce before the Appellate Authority or the Appellate Tribunal any evidence, whether oral or documentary, other than the evidence produced by him during the course of the proceedings before the adjudicating authority or, as the case may be, the Appellate Authority except in the following circumstances, namely:-

(a) where the adjudicating authority



or, as the case may be, the Appellate Authority has refused to admit evidence which ought to have been admitted; or

(b) where the appellant was prevented by sufficient cause from producing the evidence which he was called upon to produce by the adjudicating authority or, as the case may be, the Appellate Authority; or

(c) where the appellant was prevented by sufficient cause from producing before the adjudicating authority or, as the case may be, the Appellate Authority any evidence which is relevant to any ground of appeal; or

(d) where the adjudicating authority or, as the case may be, the Appellate Authority has made the order appealed against without giving sufficient opportunity to the appellant to adduce evidence relevant to any ground of appeal."



7. On perusal of the above Rule, it appears that when the petitioner has not been called upon to submit the EPCG Certificate, Clauses (a) to (d) of the Rule 112(1) of the CGST Rules would not be applicable as neither the adjudicating authority has refused to admit the evidence, nor the petitioner was prevented from sufficient cause from producing the evidence which he was called upon to produce, nor the petitioner was prevented by sufficient cause from producing before the adjudicating authority which is relevant to any ground of Appeal. The Clause (d) of the Rule 112(1) of the CGST Rules is also not applicable, as in the facts of the case, the petitioner after considering the order of rejection of adjudicating authority has placed on record the EPCG Certificate along with the Bank Guarantee required under the said Scheme for



import of the capital goods to avail the benefit of the Notification No.79/2017 and therefore, there is no violation of Rule 96(10) of the CGST Rules by the petitioner.

8. In such circumstances, the Appellate Authority ought to have considered the additional evidence placed on record by the petitioner to verify as to whether the EPCG Certificate produced by the petitioner would entitle the petitioner to claim the refund or not, as import of the capital goods availing the benefit of Notification No.79/2017 has been excluded from purview of Rule 96(10) of the CGST Rules.

9. We therefore, quash and set aside the impugned order of the Appellate Authority and remand the matter back to the Appellate



Authority to consider the additional evidence produced by the petitioner in accordance with law and to pass a fresh de-novo order on verification of such additional evidence as to whether the petitioner is entitled to the refund as per the provisions of Rule 96(10) of the CGST Rules or not. Such exercise shall be completed within a period of twelve weeks from the date of receipt of the copy of this order.

10. With the aforesaid observations and directions, the petition is disposed of. Notice is discharged.

(BHARGAV D. KARIA, J)

(PRANAV TRIVEDI,J)

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