



**Newsflash:  
GST Refund on account of accumulated ITC in  
relation to export of goods not impermissible for  
Supplementary application under 'Any other'  
category**

## GST Refund on account of accumulated ITC in relation to export of goods not impermissible for Supplementary application under 'Any other' category

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### 1.0 FACTS OF THE CASE:

M/s Shree Renuka Sugars Ltd (hereinafter referred to as “the petitioner”) is engaged in processing of raw sugar in their refineries and the resultant refined sugar is sold domestically as well as exported out of the country. The indigenous sales are made on payment of GST as applicable, whereas the exports are made under the cover of bond without payment of IGST i.e by availing the benefit of zero-rating in accordance with Section 16 of IGST Act, 2017. The petitioner regularly applies for GST refund of unutilised input tax credit (ITC) in relation to the transactions of export of goods made without payment of IGST.

The petitioner while filing a refund claim for a period of 11 months falling in the FY 2020-21 and FY 2021-22 erroneously made an application for an amount of INR 100.47 crores owing to inadvertent arithmetical error of the employee while being actually entitled to a refund amount of INR 110.68 crores as per the formula prescribed under Rule 89(4) of the CGST Rules, 2017. The refund so claimed of INR 100.47 crores was duly sanctioned and paid after necessary verifications by the concerned officers. On realising the arithmetical error committed while filing of the refund application, the petitioner made an additional application for availing the refund of differential amount of INR 10.20 crores under 'Any Other' category since the in-built constraints on the GST portal do not permit a refund applicant to file a GST refund for a particular period under a particular category more than once. The refund processing authorities rejected the refund claim filed by the petitioner for the pending amount of INR 10.20 crores since the refund claim was filed under an inappropriate category. Being aggrieved by the rejection of the refund for the left out amount, the petitioner filed a writ before the Hon'ble Gujarat High Court.

### 2.0 DISCUSSION AND FINDINGS:

The striking highlights of the judgement are summarised as under:

- **No bar under the GST provisions prohibiting supplementary refund claim for the same period**
  - o As per the sub-rule (4) of Rule 89 of CGST Rules 2017, “**Refund Amount**” means the **maximum refund that is admissible**. That the maximum refund permissible to the petitioner is of INR 100.47 crores and not INR 110.68 crores is not disputed by the authorities.
  - o Further, the **supplementary application** is made by the petitioner **within the statutory period (i.e. the 'relevant period')** laid down under Section 54(1) of the CGST Act, 2017.

- **No option available with the petitioner other than filing under 'Any Other' head due to practical constraints on the GST portal**
  - The refund module on the GST portal **permits filing of a refund application for a period under a particular category only once.**
  - Hence, the petitioner was available with no option other than choosing 'Any Other' category on the GST portal for filing refund for the pending amount for the same period.

### **3.0** **RSM COMMENTS:**

It has been rightly upheld by the Hon'ble Gujarat High Court that where a benefit is otherwise available to an assessee on satisfaction of substantive conditions cannot be denied due to a technical error or shortcoming on the common portal. Also, that the petitioner is entitled to the refund claim of unutilised ITC on account of export of goods is nowhere disputed by the adjudicating authority. Thus, the filing of a supplementary application under '**Any Other**' category is **only an irregularity** due to **system constraints** and the **substantive right of the petitioner to apply and obtain the pending refund within the statutory period cannot be taken away on grounds of mere technical defects.**

We are of the view that the Hon'ble Gujarat High Court vide its judgement has reinstated the legal and substantive right of the assessee of obtaining a refund claim in case of export of goods by allowing the petition and directing the petitioner to file a manual application for the differential amount. Further, an analogy may be derived that where a benefit is otherwise available to the assessee as per the provisions of the GST law, mere technical lapse or failure to observe a procedure should not serve to act as a deterrent factor thereby interfering with the substantive right of the assessee.

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This Newsflash summarises on the Renuka Sugars Ltd case which provides that GST Refund on account of accumulated ITC in relation to export of goods not impermissible for Supplementary application under 'Any other' category . It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analyzed to ascertain applicability or otherwise of the said judgement and appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newsflash.

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