South Indian Oil Corporation vs. The Assistant Commissioner,

Refund of accumulated Input Tax Credit under Section 54(3)(ii) of the CGST Act, 2017 – inverted duty structure where input and output goods are same. Eligibility of refund despite same tax rate on principal input and output; applicability of GST Circula

Date of Order: December 12, 2025
Case Law No: GIB-KERHC-2025-41
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Facts:
The petitioner, engaged in procurement and sale of edible oils, purchased oils in bulk and repacked them for sale at 5% GST.
Due to higher GST rates on certain inputs, unutilised Input Tax Credit (ITC) accumulated, and refund was claimed under the inverted duty structure.
Refund applications were rejected by authorities and appellate authority on the ground that input and output goods were the same.
Aggrieved, the petitioner filed the present writ petition challenging rejection of refund.

Court Decision:
The High Court allowed the petition and set aside the impugned orders rejecting refund.

- Held that Section 54(3)(ii) of the CGST Act does not prohibit refund merely because input and output goods are the same.
- Refund is admissible if ITC accumulation is due to higher tax on inputs compared to output supply.
- Circular No. 135/05/2020 restricting refund where input and output are same was held inapplicable and later restriction removed by Circular No. 173/05/2022.
- The 2022 Circular being beneficial and clarificatory was held retrospectively applicable.
- "Net ITC" includes all inputs irrespective of tax rates as per Rule 89(5).

Cases Referred by Court:

- *Indian Oil Corporation Ltd. vs. Commissioner of CGST* (Delhi High Court, 2023)
- *Suchitra Components Ltd. vs. CCE, Guntur* (2006)

- *K.P. Varghese vs. Income Tax Officer* (1981)
- *Union of India vs. VKC Footsteps India Pvt. Ltd.* (Supreme Court)
- *Baker Hughes Asia Pacific Ltd. vs. Union of India*
- *Shivaco Associates vs. Joint Commissioner of State Tax*
- *BMG Informatics Pvt. Ltd. vs. Union of India*
- *Malabar Fuel Corporation vs. ACCT & CE*
- *MO Industries vs. Union of India*
- *Eveready Spinning Mills Pvt. Ltd. vs. ACCT*

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