

Commissioner, CGST & CX, Siliguri Commissionerate v. M/s Santosh Fragrance

Inverted duty refund under Section 54(3)(ii) to an agarbatti manufacturer – whether para 3.2 of CBIC Circular 135/05/2020-GST bars the refund.

Date of Order: September 16, 2026
Case Law No: GIB-GSTAT-2026-120
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

Background

The respondent manufactures agarbatti (HSN 3307) taxed at 5%, using perfumes, fragrances, chemicals and packaging materials taxed at 12-18%. A refund of Rs. 4,00,000 of ITC accumulated due to inverted tax structure (April 2022-March 2023) was sanctioned on 18.01.2024 and upheld by the First Appellate Authority. Revenue appealed, contending that para 3.2 of Circular 135/05/2020-GST (as substituted by Circular 173/05/2022-GST) took the case outside Section 54(3)(ii).

Final Verdict

The Tribunal framed two questions: whether the credit had accumulated because the tax rate on inputs was higher than on output, and whether para 3.2 of the Circular stood in the way. Applying the definition of “inputs” in Section 2(59) and VKC Footsteps (SC), it held that the perfumes, chemicals and packaging materials were commercially distinct inputs taxed at higher rates than agarbatti, so **the ITC had accumulated on account of an inverted rate structure squarely within Section 54(3)(ii)**. Para 3.2 applies only where input and output are the same goods taxed at different rates at different points of time, and has no application here. Reiterating its own view in Power Tech Global and that of the Principal Bench in Dow Chemical, the Tribunal held that **CBIC circulars bind departmental officers but not the Tribunal, and are at most persuasive**. The concurrent findings of the lower authorities were affirmed and Revenue’s appeal dismissed.