

GSTAT,
SURAT BENCH

Division Bench Court No. I

APL/59/SRT/2026

The Assistant Commissioner of CGST & Central Excise, Division-IX, ...Appellant
Ankleshwar, Vadodara-II Commissionerate

Versus

Pragna Chemical Industries, ...Respondent

GSTIN: 24AACFP4108L1ZD

A/10 Near Sardar Park Abhilasha Bungalows GIDC Ankleshwar Gujarat-393001

Quorum

Hon'ble Sanjaykumar Dwivedi, Member(Judicial)

Hon'ble Ramesh Kumar Gokalbhai Hadvani, Member (Technical)

Counsel for Appellant

Mr. MAYA SHANKER PRABHAT, Superintendent
(Authorized Representative)

Counsel for Respondent

Adv. VINAY KANSARA

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the GST Appellate Tribunal

whether remand order : NO

Order reference no. : ZN650090926000118H

Date of order : 06/10/2026

1	GSTIN/Temporary ID/UIN - 24AACFP4108L1ZD	
2	Appeal Case Reference no. -APL/59/SRT/2026	Date - 20/02/2026
3	Name of the appellant - K Dharamveer Chowhan , dharamveer.chowhan@gov.in , 9940112615	
4	Name of the respondant - 1. PRAGNA CHEMICAL INDUSTRIES , bp101284@gmail.com , 9824125040	
5	Order appealed against - AD240524019432G	
	(5.1) Order Type - Demand Order	
	(5.2) Ref Number - ZD240425016219M	Date - 03/04/2025
6	Personal Hearing - 29/09/2026 01/09/2026 18/08/2026	
7	Status of Order under Appeal - Confirmed – Order under Appeal is confirmed	
8	Order in brief - In view of the judgment dated 03/01/2025 of Hon'ble Gujarat High Court in the case of Gujarat Chamber of Commerce and Industry vs. UOI (R/Special Civil Application No. 11345 of 2023), which is the jurisdictional High Court, it is held that no GST is payable under Reverse Charge Mechanism on assignment of leasehold rights in the plots of land allotted on lease by the Gujarat Industrial Development Corporation (GIDC), to a third party. Accordingly, the appeal filed by the department is accordingly dismissed, and the Orders-in-Appeal is upheld.	
Summary of Order		
9	If demand order then whether demand quantified: No	
10	For Other orders and Demand orders which are not quantified:	

Issues as raised by proper officer	Issues as determined by Appellate/Revisional authority	Order by GST Appellate Tribunal
Short or nonpayment of tax	the Commissioner (Appeals) vide OIA No. VAD-CGST-002-APP-ADC-489-2024-25 dated 25.02.2025 allowed the appeal with consequential relief.	Appeal dismissed

Place : SURAT

Signature

Date: 06-10-2026

Sanjaykumar Dwivedi
Designation : Member (Judicial)
Jurisdiction :Surat
Rameshkumar G. Hadvani
Designation : Member (Technical)
Jurisdiction :Surat

IN THE GOODS AND SERVICE TAX APPELLATE TRIBUNAL, SURAT BENCH

Division Bench Court No. 1

Appeal No. APL/59/SRT/2026

[Arising out of Order No. VAD-CGST-002-APP-ADC-489-2024-25 dated 25.02.2025, passed by the Additional Commissioner (Appeals), Vadodara and corresponding APL-04 Ref No.

ZD240425016219M dated 03.04.2025]

The Assistant Commissioner of CGST & Central Excise, Division-IX, Ankleshwar, Vadodara-II Commissionerate ... Appellant

Versus

Pragna Chemical Industries

GSTIN: 24AACFP4108L1ZD

A/10 Near Sardar Park Abhilasha Bungalows GIDC Ankleshwar Gujarat-393001.... Respondent

WITH

Appeal No. APL/82/SRT/2026

[Arising out of Order No. VAD-CGST-002-APP- COMM-33/11-2025-26 dated 29.04.2025, passed by the Commissioner (Appeals), Vadodara and corresponding APL-04 bearing DIN 20250465AQ000052095A]

The Assistant Commissioner of CGST & Central Excise, Division-IX, Ankleshwar, Vadodara-II Commissionerate ... Appellant

Versus

Shivabhishek Industrial Park Private Limited

GSTIN: 24AACCE5083C1Z1,

Plot No. 5038, South 9 Road, Ankleshwar GIDC, Ankleshwar, Bharuch, Gujarat Respondent

AND

Appeal No. APL/83/SRT/2026

[Arising out of Order No. VAD-CGST-002-APP- ADC-442-2025-26 dated 11.02.2025, passed by the Additional Commissioner (Appeals), Vadodara and corresponding APL-04 bearing DIN 20250465AQ000052095A]

The Assistant Commissioner of CG Central Excise,

Division-IX, Ankleshwar, Vadodara-II Commissionerate Appellant

Versus

Kumar Packaging

GSTIN: 24AAKFK2409F1ZN

PLOT No. J 1911, GIDC ESTATE, GIDC Ankleshwar, Bharuch, Gujarat, 393001 Respondent

Appearance:

For the Appellant: Mr. Maya Shanker Prabhat, Superintendent (Authorised Representative)

(For Appeal Nos. APL/59/SRT/2026, APL/82/SRT/2026 and APL/83/SRT/2026).

For the Respondent:

1. Adv. Vinay Kansara (For Appeal No. APL/59/SRT/2026),
2. None (for Appeal Nos. APL/82/SRT/2026 and APL/83/SRT/2026)

Date of last hearing: 23rd September 2026 of Decision: 06th October 2026

Date of Decision: 06th October 2026

Per: Shri Sanjaykumar Dwivedi, Member (Judicial)

1. These three appeals have been filed by the department against Orders-in-Appeals by which the Appellate Authority has set aside the demand of GST on assignment of leasehold rights in the plots of land allotted on lease by the Gujarat Industrial Development Corporation (GIDC), to a third party. The Respondents are the assignees, and the department has demanded tax from them under the reverse charge mechanism. In all these cases, the Appellate Authority has followed the judgment dated 03/01/2025 of Hon'ble Gujarat High Court in Gujarat Chamber of Commerce and Industry vs. UOI (R/Special Civil Application No. 11345 of 2023) to hold that GST is not payable on the transaction.

2. Before proceeding further, we note that the names of the parties in the cause titles appearing on the GSTAT Portal are erroneous. We are informed that this is on account of the present design of the portal and that the Registry is unable to correct it. We have, therefore, corrected the cause titles as shown in the table below. Other details such as address, GSTIN etc. remain unchanged:

Sr. No.	Appeal No. and the last date of hearing	Cause Title as appearing on the portal	Cause Title as corrected and mentioned in this order
1	APL/SRT/059/2026 Heard on 1st September, 2026	K Dharamveer Chowhan Versus Pragna Chemical Industries	Assistant Commissioner of Central GST, Division- IX, Ankleshwar, Vadodara-II Versus Pragna Chemical Industries
2	APL/SRT/082/2026 Heard on 23rd September 2026	K Dharamveer Chowhan Versus Shivabhishek Industrial Park Pvt. Ltd.	Assistant Commissioner of Central GST, Division-IX, & Ankleshwar, Vadodara-II Versus Shivabhishek Industrial Park Pvt. Ltd.
3	APL/SRT/083/2026 Heard on 23rd September 2026	K Dharamveer Chowhan Versus Kumar Packaging	Assistant Commissioner of Central GST, Division- IX, Ankleshwar, Vadodara-II Versus Kumar Packaging

3. For convenience, the facts are taken from the Appeal No. APL/SRT/059/2026 (Commissioner of CGST, Vadodara-II vs. Pragna Chemical Industries).

3.1. Briefly stated, the facts are that in the year 1990 GIDC allotted Plot No. 7311 situated at GIDC Industrial Estate, Ankleshwar to one Mr. Vinay R S Jain under a license agreement. Later, the Central Excise and Customs department attached the said property for recovery of the dues of Tulsi Alloys Pvt. Ltd., who had defaulted in payment of Central Excise and Service Tax.

3.2 An e-auction was conducted by MSTC Ltd. on behalf of the Central Excise and Customs department on 26.04.2018. One M/s. Raj Enterprise emerged as the successful bidder and was declared the purchaser. Raj Enterprise, in turn, transferred its rights to the Respondent Pragna Chemical Industries, by nominating it the person to whom the property was to be transferred. An agreement was entered into between Raj Enterprises and the Respondent on 05.03.2019. GIDC vide Office Order No. GIDC/ RM/ ANK/ TRF/ FFO/ ANKI/ 583 dated 24.01.2019, transferred the leasehold right in the said plot to the Respondent. Thus, the Respondent became the assignee or recipient of the leasehold rights.

3.3. A Show Cause Notice was issued to the Respondent demanding GST on the said transaction. The notice alleged that the Respondent had deliberately withheld information from the department about supply of service, and that the facts came to the notice of the department only after it conducted an investigation. On that basis, the provisions of Section 74 and 122(2)(b) of the Central GST Act, 2017 were invoked. These allegations were made even though:

- (i) the transaction took place through an auction conducted by the department itself;
- (ii) the certificate in Form Appendix IX was issued by the Dy. Commissioner, Division IX, who also had jurisdiction over the Respondent under the Central GST law; and
- (iii) the department authorised GIDC to transfer the lease to the Respondent.

3.4. The adjudicating authority confirmed the demand of tax along with interest and imposed penalty equal to tax under Section 74(1) and again imposed a further penalty of equal amount under Section 122(2)(b) of the Central GST Act, 2017. The Appellate Authority allowed the Appeal of the Respondent herein, relying on the judgment of the Hon'ble Gujarat High Court in Gujarat Chamber of Commerce and Industry, *supra*.

4. Mr. Maya Shanker Prabhat, learned Superintendent (Authorised Representative) appearing for the department reiterates the grounds raised in the appeal memo and submits that the appeals were filed because the department had filed a Special Leave Petition (SLP) before the Hon'ble Supreme Court against the judgment in Gujarat Chamber of Commerce. He further submits that although the SLPs filed by the department have since been dismissed by the Hon'ble Supreme Court, the department is in the process of filing a review petition.

5. Mr. Vinay Kansara, learned Advocate appearing for Pragna Chemical Industries, submits that the judgment of the Gujarat Chamber of Commerce and Industry, *supra* prevails and is binding.

6. We have heard both sides and perused the record.

7. It is not in dispute that the present case is squarely covered by the judgment in Gujarat Chamber of Commerce and Industry, supra. In that case, the issue was whether GST is leviable on assignment of leasehold rights of the plot of land allotted on lease by Gujarat Industrial Development Corporation (GIDC) and building constructed thereon, by the lessee or its successor (assignor) to a third party (assignee) on payment of lump-sum consideration considering the same as supply of service under the provisions of Central/State Goods and Service Tax Act, 2017. The Hon'ble High Court held:

83. In view of foregoing reasons, assignment by sale and transfer of leasehold rights of the plot of land allotted by GIDC to the lessee in favour of third party- assignee for a consideration shall be assignment/sale/ transfer of benefits arising out of "immovable property" by the lessee-assignor in favour of third party-assignee who would become lessee of GIDC in place of original allottee-lessee. In such circumstances, provisions of section 7(1)(a) of the GST Act providing for scope of supply read with clause 5(b) of Schedule II and Clause 5 of Schedule III would not be applicable to such transaction of assignment of leasehold rights of land and building and same would not be subject to levy of GST as provided under section 9 of the GST Act.

84. In view of above, question of utilisation of input tax credit to discharge the liability of GST on such transaction of assignment would not arise.

85. The petitions accordingly succeed and impugned show cause notices and orders in original or appeal as the case may be, are hereby quashed and set aside. Rule is made absolute to the aforesaid extent. No order as to costs.

7.1. The issue also came up before the Hon'ble Bombay High Court in Aerocom Cushions Private Limited vs. Assistant Commissioner (Anti-Evasion), Nagpur [2026:BHC-NAG:348-DB]. Agreeing with the decision of the Hon'ble Gujarat High Court in Gujarat Chamber of Commerce and Industry, supra, Hon'ble Bombay High Court by its judgment dated 09.01.2026 held:

13. We subscribe to this view for the reasons quoted in earlier part of our judgment so also because the view, in our considered opinion, is in consonance with the provisions of law on supply of services."

14. Further we subscribe to the finding of Gujarat High Court that the assignment by sale and a transfer of leasehold rights of the plot of land allotted by the Corporation like GIDC or MIDC to the lessee in favour of third party-assignee for a consideration shall be assignment/sale/transfer of benefits arising out of immovable property by the lessee-assignor in favour of third party and in such circumstances, the transaction would not be subject to levy of GST in terms of the GST Act.

15. The writ petition is accordingly allowed. Show cause notice No.47/AC/GST/NGP-I/2024 dated 20- 12-2024 issued by respondent No.1 is quashed and set aside.

7.2. The department's Petition (SLP (C) No. 18772/2026) against the judgment in Aerocom Cushions came up before the Hon'ble Supreme Court on 22nd May 2026 when the following order was passed:

"We are not inclined to interfere with the impugned judgment and order of the High Court, hence, the special leave petition is dismissed."

7.3. The department's Petition (Diary No. 33270/2025) against the judgment in Gujarat Chamber of Commerce, came up before the Hon'ble Supreme Court on 21st July 2026 when the following order was passed:

1. Delay condoned.

2. This Court, vide order dated 22.05.2026, has already dismissed a Special Leave Petition, being SLP (C) No. 18772/2026.

3. In view of the fact that a similar SLP has been dismissed, the instant special leave petitions are dismissed.

4. Pending application(s), if any, shall stand disposed of.

7.4. In view of the above, the judgments of Hon'ble Gujarat High Court, which is the jurisdictional High Court, holds the field and binds the Tribunal. The department's stated intention to seek a review does not dilute its binding effect, there being no order staying or recalling it.

8. We accordingly hold that GST is not leviable on the transactions in question.

9. In view of this finding, the questions whether provisions of Section 74 and 122(2)(b) were rightly invoked in the facts of these cases, and whether the reverse charge mechanism is applicable, do not survive for our consideration.

10. The appeals filed by the department are accordingly dismissed, and the Orders-in-Appeal are upheld. (Operative part of the order pronounced in open court on 29th September 2026).

(Sanjaykumar Dwivedi)

(Rameshkumar G. Hadvani)

Judicial Member

Technical Member (State)

Date: 06/10/2026

Place: Surat