IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 10506 of 2025

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MESSRS ACULIFE HEALTHCARE PVT. LTD. & ANR.
Versus
THE UNION OF INDIA & ANR.
==
Appearance:
AMAL PARESH DAVE(8961) for the Petitioner(s) No. 1,2
MR PARESH M DAVE(260) for the Petitioner(s) No. 1,2
MR. PARTH P RACHCHH(13990) for the Petitioner(s) No. 1,2
MR PRADIP D BHATE(1523) for the Respondent(s) No. 1
MR UTKARSH R SHARMA, SR. STANDING COUNSEL for the Respondent(s) No. 2
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CORAM:**HONOURABLE MR. JUSTICE BHARGAV D. KARIA**
and
HONOURABLE MR. JUSTICE PRANAV TRIVEDI

Date : 09/10/2025

ORAL ORDER
(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

1 Heard learned advocate Mr.Paresh Dave for the petitioners and learned Senior Standing Counsel Mr.Utkarsh Sharma for the respondent.

2 By this petition under Article 227 of the Constitution of India, the petitioner has prayed for the following reliefs:

> *“(A) That Your Lordships may be pleased to issue a Writ of Mandamus, or any other appropriate writ, order or direction striking down Sub Rule*

(10) of Rule 96 of the CGST Rules, 2017 as ultra vires Section 16 of the IGST Act, ultra vires Section 164 of the CGST Act, 2017, ultra vires and Articles 14 and 19(1)(g) of the Constitution of India:

(B) That Your Lordships may be pleased to issue a Writ of Mandamus, or a Writ of Certiorari, or any other appropriate writ, order or direction quashing and setting aside OIA No.AHM-CGST-002-APP-ADC-93/2024-25 dated 23.12.2024 passed by the Additional Commissioner (Appeals). Ahmedabad, in respect of demand of Rs.9.97.222/- with interest and penalty (Annexure-"C");

(C) Pending hearing and final disposal of the present petition, Your Lordships may be pleased to restrain the Respondents, their servants and agents from taking any action of coercive recovery against the Petitioner for refund of integrated tax already paid, and be further pleased to stay OIA No.AHM-CGST-002-APP-ADC-93/2024-25 dated 23.12.2024 passed by the Additional Commissioner (Appeals). Ahmedabad. in respect of demand of Rs.9.97.222/- with interest and penalty (Annexure-"C")

(D) An ex-parte ad-interim relief in terms of Para 19(C) above may kindly be granted;

(E) Any other further relief that may be deemed fit in the facts and circumstances of the case may also please be granted."

3 The brief facts of the case are as under:

3.1 The petitioner exported various consignments of medicaments on payment of Integrated Goods & Service Tax (for short ‘IGST) between the period from 01.07.2017 to 12.04.2019 which was refunded in view of the provisions of Sec.16 of the IGST Act,2017.

3.2 The petitioner received show-cause notice dated 28.04.2023 on the basis that the petitioner had procured goods under exemption of Advance Authorization Scheme for utilizing such goods in relation to manufacture of final products exported on payment of IGST. However, as per Sub-rule(10) of Rule 96 of the Central / State Goods & Service Tax Rules, 2017, the petitioner could not have paid the IGST on the exported goods because of duty free procurement of goods/inputs, and therefore, the refund sanctioned in favour of the petitioner was contrary to the Rule 96(10) of the CGST Rules.

3.3 The Assistant Commissioner of CGST & Central Excise, passed an Order-in-Original dated 21.05.2024 raising a demand of Rs.15,17,264/- on the ground that such IGST was paid on the goods exported prior to 23.10.2017 when sub rule (10) of Rule 96 was not in force.

3.4 Being aggrieved, the petitioner preferred an appeal before the Commissioner of CGST (Appeals), who, by order dated 23.12.2024 set aside the demand of Rs.76,35,800/- in view of the decision of this Court in the case of M/s. Cosmo Films Ltd, wherein, it is held that sub-rule (10) of Rule 96 was applicable and effective prospectively from 09.10.2018 and not for the period prior thereto and the demand was reduced to Rs.9,97,222/-.

3.5 It is the case of the petitioner that in view of the decision of this Court in Special Civil Application No.

22519 of 2019 and other allied matters filed by M/s. Adwrap Packaging Ltd & Ors., wherein it is held that Rule96 (10) would stand omitted prospectively, however, such ommission would also apply to pending proceedings/ cases where final adjudication has not taken place.

4 Learned advocate Mr.Paresh Dave for the petitioner submitted that the appeal filed by the petitioner before the First Appellate Authority was pending when the Notification No. 20 / 2024 dated 08.10.2024 was issued, and therefore, as per the decision of this Court, the proceedings were pending when the notification which is held to be prospective was issued by the respondent omitting the Rule96(10).

4.1 Learned advocate Mr.Paresh Dave for the petitioner referred to and relied upon paragraph 205 of the decision of this Court in the case of ***M/s. Adwrap Packaging Ltd & Ors., vs. Union of India & Ors.,*** which reads as under:

> *"205. Therefore, we are of the opinion that Notification No. 20/2024 dated 8th October,2024 would be applicable to all the pending proceedings/cases meaning thereby that Rule 96 (10) would stand omitted prospectively but applicable to pending proceedings/cases where final adjudication has not taken place."*

5 On the other hand, learned Senior Standing Counsel Mr.Utkarsh Sharma appearing for the respondent could not controvert the fact that the appeal filed by the petitioner was pending for final adjudication before the Commissioner, CGST (Appeals) on 08.10.2024 when the Notification No.20/2024 was issued.

5.1 In view of the above undisputed facts, as the proceedings were pending for final adjudication before the Appellate Authority, the case of the petitioner would be covered by the Notification No. 20/2024 and as per the decision of this Court in the case of **M/s. Adwrap Packaging Ltd & Ors (supra).**

6 In view of the above, the proceedings of the impugned OIA No.AHM-CGST-002-APP-ADC-93/2024-25 dated 23.12.2024 passed by the Additional Commissioner (Appeals), Ahmedabad, are hereby quashed and set aside.

7 The petition is accordingly allowed. Notice is discharged.

(BHARGAV D. KARIA, J)

(PRANAV TRIVEDI,J)

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