

S.N	Subject	Held																																																				
1.	Petitioner's contention	Packing material, consumables etc. used as raw material qualified as input in terms of statutory provisions. For refund under inverted duty, there need not be one-to-one correlation between inputs or outputs but a rationale principle of comparing average rate of duty of inputs with the rate of duty of outputs. Other grounds of rejection that refund was due to high input purchases and they were in stock during the claim period is not referable to statutory scheme as it does not talk of stock, but only refers to output turnover.																																																				
2.	Facts	<table border="1"> <thead> <tr> <th>Description</th> <th>Output</th> <th>Inputs utilised</th> <th>GST</th> </tr> </thead> <tbody> <tr> <td rowspan="3">Cotton</td> <td rowspan="3">5%</td> <td>Cotton</td> <td>5%</td> </tr> <tr> <td>Packing Material</td> <td>12%</td> </tr> <tr> <td>Other Inputs</td> <td>28%</td> </tr> <tr> <td rowspan="4">Cotton Blended Yarn</td> <td rowspan="4">5%</td> <td>Cotton</td> <td>5%</td> </tr> <tr> <td>Manmade Fibre</td> <td>18%</td> </tr> <tr> <td>Packing Material</td> <td>12%</td> </tr> <tr> <td>Other Inputs</td> <td>28%</td> </tr> <tr> <td rowspan="4">Polyester/Viscose blended yarn</td> <td rowspan="4">12%</td> <td>Store/Spare Consumable</td> <td>18%</td> </tr> <tr> <td>Cotton</td> <td>5%</td> </tr> <tr> <td>Manmade Fibre</td> <td>18%</td> </tr> <tr> <td>Packing Material</td> <td>12%</td> </tr> <tr> <td rowspan="4">Polyester/Viscose Yarn</td> <td rowspan="4">12%</td> <td>Other Inputs</td> <td>28%</td> </tr> <tr> <td>Store/Spare Consumable</td> <td>18%</td> </tr> <tr> <td>Manmade Fibre</td> <td>18%</td> </tr> <tr> <td>Packing Material</td> <td>12%</td> </tr> <tr> <td rowspan="4">Other Outward supply</td> <td rowspan="4">0.1%</td> <td>Other Inputs</td> <td>28%</td> </tr> <tr> <td>Cotton</td> <td>5%</td> </tr> <tr> <td>Manmade Fibre</td> <td>18%</td> </tr> <tr> <td>Packing Material</td> <td>12%</td> </tr> </tbody> </table> <p>The Court observed that while two output supplies namely cotton yarn and cotton blended yarn were taxable @ 5%, the rate of GST on inputs, except cotton, was more than the rate of tax on output supplies. One of the inputs (raw material) namely cotton attracted 5% GST, but all other inputs namely packing material, store consumables and spares, manmade fibre and other inputs carried higher rate of tax, i.e., 12%, 18% and 28%. As far as other two output supplies namely polyester/viscose blended yarn and polyester/viscose yarn were concerned, rate of GST on output supplies was 12%. For manufacturing of polyester/viscose blended yarn, as many as five inputs (raw materials) were utilised, namely cotton, manmade fibre, packing material, store consumables and spares and other inputs. Cotton alone was taxable @ 5% which was lower than GST on output supply. Other input, namely, packing material carried 12% rate of GST which was equal to the rate of GST on such output supply. However, three other inputs, namely, manmade fiber, store consumables and spares and other inputs attract higher rate of GST which was 18% and 28%. Similarly, polyester/viscose yarn was also taxable @ 12% and out of four inputs, the rate of GST on packing material alone being 12% was equal to the rate of tax on such output supply. However, remaining inputs, namely, manmade fibre, store consumables and spares as also other inputs carry rate of tax higher than the rate of tax on such output supply. Under the heading "other outward supply", the rate of GST is only 0.1% whereas all the inputs (raw materials) used to manufacture carry higher rate of GST, i.e. 5%, 12%, 18% and 28%.</p> <p>The Court observed that above comparative analysis clearly revealed that all the inputs taken together and utilised through the process of manufacturing, the output supplies would carry higher rate of GST as compared to the rate of GST on such inputs, either taken individually or collectively both. The rate of tax on output is ranging from 0.1% to 5% or 12% whereas rate of tax applicable on some inputs may be 5% or 12%, but on remaining inputs, rate of GST is certainly higher than 5% or 12%.</p>	Description	Output	Inputs utilised	GST	Cotton	5%	Cotton	5%	Packing Material	12%	Other Inputs	28%	Cotton Blended Yarn	5%	Cotton	5%	Manmade Fibre	18%	Packing Material	12%	Other Inputs	28%	Polyester/Viscose blended yarn	12%	Store/Spare Consumable	18%	Cotton	5%	Manmade Fibre	18%	Packing Material	12%	Polyester/Viscose Yarn	12%	Other Inputs	28%	Store/Spare Consumable	18%	Manmade Fibre	18%	Packing Material	12%	Other Outward supply	0.1%	Other Inputs	28%	Cotton	5%	Manmade Fibre	18%	Packing Material	12%
Description	Output	Inputs utilised	GST																																																			
Cotton	5%	Cotton	5%																																																			
		Packing Material	12%																																																			
		Other Inputs	28%																																																			
Cotton Blended Yarn	5%	Cotton	5%																																																			
		Manmade Fibre	18%																																																			
		Packing Material	12%																																																			
		Other Inputs	28%																																																			
Polyester/Viscose blended yarn	12%	Store/Spare Consumable	18%																																																			
		Cotton	5%																																																			
		Manmade Fibre	18%																																																			
		Packing Material	12%																																																			
Polyester/Viscose Yarn	12%	Other Inputs	28%																																																			
		Store/Spare Consumable	18%																																																			
		Manmade Fibre	18%																																																			
		Packing Material	12%																																																			
Other Outward supply	0.1%	Other Inputs	28%																																																			
		Cotton	5%																																																			
		Manmade Fibre	18%																																																			
		Packing Material	12%																																																			
3	Observed	<p>Plural Use of words "inputs" and "output supplies"- Proviso (ii) to Section 54(3) provides "where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies". The language of the provision signifies plurality of both inputs and output supplies. Use of the word, "inputs" signifies that there may be more than one input and it was not possible to read "inputs" as "input" alone. Thus, refund of unutilised ITC due to inverted rate cannot be restricted to those cases of single input and single output supply.</p> <p>Rate of Tax on inputs should exceed Rate of tax on output - Scheme of refund is applicable where accumulation of unutilised ITC is a result of tax rate on inputs being higher than tax rate on output supplies. As inputs were taxed @ 5%, 12%, 18% & 28% and output taxed @ 0.1%, 5% & 12%, thus, tax rate on inputs was held to be higher than tax rate on output supplies.</p> <p>Rejection because 80% output was of 5% and input majority was of 5%- Refund was rejected as output sales to the extent of 80% was having 5% duty and input too was majority of 5% rate and thus, rate was held to be more or less the same. The approach that "rate is more or less the same" was held to be running contrary to statutory scheme and once all inputs and output supplies on comparative basis lead to a situation where tax rate on inputs is higher than tax rate on output supplies, scheme of refund was to be given full effect.</p> <p>Overall rate of all inputs should be marginally higher than rate of output supplies - While rate of tax on certain inputs was 18% and 28%, no output supplies attracted tax rate beyond 12%. Therefore, if overall rate of all inputs is marginally higher than rate of output supplies, accumulation of unutilised ITC will bring it within the net of inverted duty structure.</p> <p>Rejection on the claim that refund is mainly on account of accumulation of high input purchase and they were in stock during the period- Refund was rejected that claim of refund was mainly due to high input purchases and they were in stock during the claim period. It was stated by the Court that Statutory scheme does not talk of the stock, but refers to output turnover (adjusted turnover) during the claim period. Rule 89(5) envisages that total ITC claimed on inputs during the claim period gets consumed in respect of the turnover of the claim period. Obviously, once refund is sanctioned, ITC claimed for relevant tax period cannot be carried forward to the subsequent claim periods. Thus, determining factor is rate of tax and quantum of ITC and not the value/quantum of individual inputs (going into an output) and the outputs. Stock based approach, thus was held to violate the statutory scheme of refund.</p> <p>Circular No. 79 dated 31.12.2018 and Circular No. 125 dated 18.11.2019 do not provide guidelines for claims for refund involving multiple outputs- The Court observed that competent authority issued guidelines for refund wherein there were multiple inputs but situation of multiple output supplies was not dealt by aforesaid circulars.</p> <p>Affirmation of rejection of the claim of petitioner by Appellate Authority cannot be on a ground other than the ground for rejection of claim by the Adjudicating Authority</p>																																																				
	Held	Where tax rate on some inputs is higher than tax rate on output supplies, and where outputs are more than one, statutory scheme of refund based on inverted duty structure shall be applicable and, refund claim would be determined based on computation prescribed in Rule 89(5) and not based on any other mode of computation.																																																				