

**GIB/RJ/VV ENTERPRISES/11.03.2021/HC-195**

**High Court Category :** REFUND

**State :** Rajasthan

**Order No.:** GIB/RJ/VV ENTERPRISES/11.03.2021/HC-195

**Name of Entry :**  
M/S VV ENTERPRISES

**Date :** 11-03-2021

**Breif Issue :**

**FACTS AND ISSUE OF THE CASE:**

In this case the appellant is engaged in the manufacture of gear shaft, gear bevel etc. The appellant exported the goods to UAE/USA. The exported goods were manufactured out of tax paid on raw material. As such tax involved in the raw material amounting to Rs.16,78,832/- (Rs.12,12,989/- +Rs.4,65,843/-) was debited on 23.11.2018 and accordingly appellant has filed refund claims under Section 54 of CGST Act, 2017.

The adjudicating authority has observed that however, the appellant physically not submitted the supporting documents in spite of requests and reminders. As per Telephonic conversation with the assessee he was requested to submit the records, still no records have been submitted by them. The adjudicating Authority has rejected the refund claims of the appellant as they have not submitted the supporting documents in respect of the refunds filed under Rule 92(3) of CGST Rules, 2017 and Circular No.79/53/2018- GST dated 31.12.2018.

**Decision of Advance Ruling Authority :**

**DECISION:**

There is force in the appellant's plea that the said impugned order was passed without issue of deficiency memo in GST Form-03 and also without issue of RFD-08 without being heard to him. Further, it is also provided in Rule 92(3) of CGST Rules, 2017 that no application for refund shall be rejected without giving the applicant an opportunity of being heard - the adjudicating authority while rejecting the refund claims of the appellant neither deficiency memo in Form GST RFD-03 nor show cause notice in Form RFD-08 has been issued and also any relevant provisions of law/rules for rejection of their refund claims has been discussed.

It is also found that non-passing of speaking order indeed amount to denial of natural justice. Before passing of order atleast deficiency memo and show cause notice and at least

speaking order should have been passed by giving proper opportunity of personal hearing in the matter to the appellant and detailing factors leading to rejection of refund claims. Such order is not sustainable in the eyes of law - In view of the above legal provisions provided in CGST Act and Rules made thereunder it would be appropriate at the part of adjudicating authority to provide the proper opportunity of being heard to the appellant and pass of fresh speaking order accordingly impugned order is set aside - appeal allowed by way of remand.