

GIB/GJ/GOKUL AGRO/26-02-2020/HC-118

High Court Category : REFUND

State : Gujarat

Order No.: GIB/GJ/GOKUL AGRO/26-02-2020/HC-118

Name of Entry :

GOKUL AGRO RESOURCES LTD. VERSUS UNION OF INDIA

Date : 26-02-2020

Breif Issue :

Fact of the Case:

In this Writ petition petitioner is pointing towards Refund of GST paid under RCM on ocean freight/Constitutional validity of Entry No.10 of Notification No.10/2017-IGST(Rate) dated 28.6.2017 /vires of Section 5(3) of the IGST Act as well as Article 14 of the Constitution of India

Petitioner through this petition praying for reliefs on following grounds:

- To issue a writ striking down and declaring Entry No.10 of Notification No.10/2017-IGST(Rate) dated 28.6.2017 as being ultra-vires Section 5(3) of the IGST Act as well as Article 14 of the Constitution of India.
- To issue a writ of mandamus directing the learned respondents to grant refund of the amount of IGST already paid by the petitioner pursuant to the impugned Entry No.10 of Notification No.10/2017-IGST (Rate) dated 28.6.2017 (as per statement at Annexure D) along with appropriate interest on such refund.
- To restrain the learned respondents from taking coercive steps against the petitioner on the basis of the impugned Entry No.10 of **Notification No.10/2017-IGST(Rate) dated 28.6.2017;**

Refer Case MOHIT MINERALS

[GIB/GJ/MOHIT MINERALS/23-01-2020/HC-44](#)

Decision of Advance Ruling Authority :

Decision :

This Court vide judgement and order passed in the case of Mohit Minerals Pvt Ltd vs. Union of India declared the Entry No.10 of the Notification No.10/2017-Integrated Tax (Rate) dated 28th June 2017 as ultra vires Section 5(3) of the Integrated Goods and Services Tax Act, 2017 as well as Article 14 of the Constitution of India.

Since the Notification has been struck down as ultra vires, as a consequence of the same, the writ applicant seeks refund of the amount paid towards the IGST.

However, for this purpose, the writ applicant will have to prefer an appropriate application addressed to the competent authority.

Application disposed off.