

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 4566 of 2025**

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M/S N H ASSOCIATES  
Versus  
SUPERINTENDENT OF CENTRAL GST AND CENTRAL EXCISE , RANGE  
I, DIVISION VI, AHMEDABAD NORTH & ANR.

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Appearance:

MR HARDIK V VORA(7123) for the Petitioner(s) No. 1

MR ANKIT SHAH(6371) for the Respondent(s) No. 1,2

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CORAM:**HONOURABLE MR. JUSTICE A.S. SUPEHIA**  
and  
**HONOURABLE MR. JUSTICE PRANAV TRIVEDI**

Date : 24/03/2026

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

1. **RULE.** Learned Senior Standing Counsel Mr.Shah waives service of notice of rule for and on behalf of the respondents.

2. At the outset, learned advocate Mr.Vora has submitted that the issue is squarely covered by the judgement and order dated 12.09.2024 passed in Special Civil Application No.19190 of 2023.

3. Learned Senior Standing Counsel Mr.Shah is unable to dispute the said fact.

4. In the present writ petition, the petitioner has prayed for the following reliefs:

*"5a. A writ of certiorari, or any other appropriate writ, order and/or directions in the nature of certiorari to quash the order-in-original dated 15.12.2023 passed by the Respondent no. 1 (AnnexureF-1), order-in-appeal dated 05.07.2024 passed by the*



*respondent no. 2 (Annexure A) and consequent DRC-07 dated 26.12.2024 (Annexure B);*

*b. A writ of Mandamus or writ, order, or direction in the nature of Mandamus directing the Respondent no. 1 to issue the refund of CGST of Rs. 37,578/-, SGST of Rs. 97,578/- and IGST of Rs. 1,84,620/- paid by the Petitioner vide DRC-03 dated 15.11.2022 having ARN no. AD241122005118T which has been appropriated against the demand raised on account of non-payment of GST on sale of cotton seed oil cake during the period 01.07.2017 to 21.09.2017;"*

5. Thus, the petitioner has challenged the inaction of the respondent No.1 in issuing the refund of Central Goods and Services Tax (CGST) paid by the petitioner vide DRC-03 dated 15.11.2022, which has been appropriated against the demand raised on account of non-payment of Goods and Services Tax (GST) on sale of cotton seed oil cake during the period of 01.07.2017 to 21.09.2017 without considering that the cotton seed oil cakes are largely used as cattle feed and the same is exempted vide notification No.02/2017-Central Tax (Rate) dated 20.06.2017.

6. The Coordinate Bench of this Court was seized of the identical issue and by the judgement and order dated 12.09.2024, it has held thus:

*"8. Having heard learned advocates for the respective parties and considering the facts of the case, it appears that the petitioner was not liable to pay the VAT into Pre-GST Regime on the sale of cotton seed oil cake as the same was exempted as cattle feed. The*



*GST Act has subsumed the earlier VAT Act and as per the Entry No.102 of Notification No.2 of 2017, it clearly provides for exemption to levy of GST on cattle feed. Even on perusal of the show-cause notice, it is revealed that the respondent Authority has reproduced objections raised by the Audit Party which clearly shows that the Audit Party while considering the replies made by the petitioner during the course of Audit and deliberations on the issues though recorded that the petitioner was not able to prove or state the status of the cotton seed oil cake purchasers with GSTIN but such purchasers also declined to pay up the tax on such outward supplies with the contention that since end use of the cotton seed oil cakes is only for cattle feed the product has to be exempted, meaning thereby that the merely the supply of the cotton seed oil cake to the traders would not determine the levy of GST as end use of cattle feed is not in dispute. The Hon'ble Supreme Court in case of Gopsons Papers Limited (Supra) has therefore, in such circumstances in the facts of the said case held that end use of the product at the ends of the purchaser is not the concern of the assessee and cannot be the consideration for classifying the goods in question.*

*9. We are therefore of the opinion that in the facts of the case when the petitioner has made supply of the cotton seed oil cake as cattle feed, the petitioner was entitled to exemption under Serial No.102 of Exemption Notification No.2 of 2017.*

*10. In view of such findings we are not analyzing the applicability of the Notification No.28 of 2017 retrospectively or prospectively as supply of cotton seed oil cake would be exempted as cattle feed from 01.07.2017 and more particularly, from 22.09.2017 as per the Entry No.102A of the Act.*

*11. In view of the foregoing reasons, the petition succeeds and is accordingly allowed. The impugned order dated 29.03.2022 passed by the Adjudicating Authority as well as the order dated 11.01.2023 passed by the Appellate Authority are hereby quashed and set aside. Rule is made absolute to the aforesaid extent. No order as to costs."*



7. Thus, the issue is settled by the Coordinate Bench and not disputed by the respondents. Under the circumstances, the present writ petition is allowed. The impugned orders being (i) order-in-original dated 15.12.2023 passed by the respondent No.1, (ii) order-in-appeal dated 05.07.2024 passed by the respondent No.2 and (iii) consequent DRC-07 dated 26.12.2024 are hereby quashed and set aside. The respondents are directed to issue the refund, as prayed by the petitioner, within a period of 12 weeks from the date of receipt of the order of this Court. Rule made absolute.

Sd/-  
**(A. S. SUPEHIA, J)**

Sd/-  
**(PRANAV TRIVEDI, J)**

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