

**Refund allowed where inputs and output goods are same but supply
made under concessional rate notification: HC**

**Facts of the case - Micro Systems and Services Sole Proprietorship v.
Union of India - [2022] (Telangana)**

The petitioner was engaged in supply of goods at concessional rate of 5% GST to Defence, Research & Development Organisation (DRDO) laboratories and affiliates. The inputs and output goods were same but outward supply was made under notification providing for concessional rate of tax. It filed application claiming refund arising out inverted duty structure but the application was rejected by proper officer and the same was upheld by appellate authority. It filed writ petition to challenge the rejection of refund application.

Decision of the case:

- The Honorable High Court observed that the rejection order was passed based on CBIC Circular issued in 2020 whereby refund was clarified as not admissible when input and output supplies are same.
- However, the CBIC subsequently by Circular No.173/05/2022-GST dated July 6th, 2022 clarified that such restriction would not apply when supply was made under concessional notification.
- Being clarificatory in nature, the circular issued in 2022 would have effect from date when circular issued in 2020 came into effect.
- Therefore, the Court remanded the matter for re-consideration in terms of circular issued in 2022 and held that the impugned orders were liable to be set aside.