

**Order rejecting refund claim on grounds not mentioned in SCN is not sustainable: HC**

**Facts of the case: Varidhi Cotspin (P.) Ltd. v. State of Gujarat - [2022] 142 taxmann.com 498 (Gujarat)**

The petitioner filed application for refund of IGST paid on import of goods under Export Promotion Capital Goods Scheme (EPCG). The department issued SCN while proposing not to entertain the prayer for refund and reasons mentioned in SCN were as follows:

1. As per SGST Act-Section 54(1) refund period is more than two years, so refund application is liable to reject.
2. There is no clear ground on which refund application is filed.
3. On which ground refund amount is calculated is not clear.
4. Attached documents are incomplete.

The petitioner submitted reply of SCN and thereafter the order was passed rejecting the refund by stating that refund was inadmissible because of wrong ITC claim. The petitioner filed writ petition to quash order rejecting refund claim.

**Decision of the case:**

The Honourable High Court observed that the department rejected claim of refund on the basis of ground which was never mentioned in the SCN. In the instant case, the opportunity to meet with ground mentioned in SCN had not been given to petitioner. Therefore, the impugned order was to be set aside and the department was directed to consider refund claim afresh and pass order.