

HC directs GST dept to refund tax on ocean freight within 6 weeks

'Double levy' sans statutory sanction is illegal, SC had held in May

SHISHIR SINHA

New Delhi, July 29

Following a Supreme Court verdict, the Gujarat High Court has directed the GST department to grant refund of tax paid on ocean freight within six weeks. Experts say this ruling is beneficial on two counts- first, defines a time-bound refund settlement process for GST on ocean freight and, second, provides clarity on sectors that are outside GST or under the inverted duty structure.

In May this year, dismissing an appeal by the Centre in the matter of Mohit Minerals, the Supreme Court upheld a ruling by a division bench of the



same High Court and said: "Having paid IGST (Integrated Goods & Service Tax) on the amount of freight which is included in the value of imported goods, the impugned notifications levying tax again as a supply of service, without any express sanction by the statute, are illegal and liable to be struck down."

Relying on this, a division bench of the High Court said in view of the decision in Mohit Minerals since the impugned notifications have already been declared as ultra vires, the petition deserves to be allowed.

"It is directed that if any IGST

amount is collected, the same shall be refunded within six weeks, along with a statutory rate of interest," it said, while disposing a petition by Lousi Dreyfus Company.

With the commencement of GST levy with effect from July 1, 2017, a notification (08/2017) provided that IGST at the rate of 5 per cent shall be levied on inter-state supply of services when the goods are transported in a vessel. Another notification (10/2017) prescribed that in respect of services supplied by a person located in a non-taxable territory by way of transportation of goods by vessel from a place outside India up to the Custom Clearance Station in India, the entire IGST shall be paid on reverse charge basis by the importer. Later, it was said IGST will be collected at the rate of 10 per cent of the CIF (Cost, Insurance and Freight) value.