

**GUJARAT APPELLATE AUTHORITY FOR ADVANCE RULING**  
**GOODS AND SERVICES TAX**  
**D/5, RAJYA KAR BHAVAN, ASHRAM ROAD,**  
**AHMEDABAD – 380 009.**



ADVANCE RULING(APPEAL) NO. GUJ/GAAAR/APPEAL/2025/13  
 (IN APPLICATION NO. Advance Ruling/SGST&CGST/2024/AR/02)

Date : 31.7.2025

Name and address of the appellant	:	M/s. I-Tech Plast India Pvt.Ltd., Survey No.108-109, Bhavnagar-Rajkot Highway, Shampara, Bhavnagar.
GSTIN of the appellant	:	24AABCI1401P1ZT
Advance Ruling No. and Date	:	GUJ/GAAR/R/2024/04 dated 3.2.2024
Date of appeal	:	7-3-2024
Date of Personal Hearing	:	25.06.2025
Present for the appellant	:	Shri Tushar Hemani, Sr. Advocate and Shri Nishant Shukla, Advocate for the appellant and Shri M J Tala, Assistant Commissioner , SGST for the Revenue.

At the outset we would like to make it clear that the provisions of the Central Goods and Services Tax Act, 2017 and Gujarat Goods and Services Tax Act, 2017 (for short - 'CGST Act, 2017' and the 'GGST Act, 2017') are *pari materia* and have the same provisions in like matter and differ from each other only on a few specific provisions. Therefore, unless a mention is particularly made to such dissimilar provisions, a reference to the CGST Act, 2017 would also mean reference to the corresponding similar provisions in the GGST Act, 2017.

2. The present appeal has been filed under Section 100 of the CGST Act, 2017 and the GGST Act, 2017 by M/s. I-Tech Plast India Pvt. Ltd., (for short - 'appellant') against the Advance Ruling No. GUJ/GAAR/R/2024/04 dated 3.2.2024.

3. Briefly, the appellant who is engaged in the manufacture and supply of toys made up of plastic and/or rubber or both, approached the GAAR<sup>1</sup> seeking a ruling on the below mentioned questions *viz*

*"[a]What is the appropriate classification & rate of GST applicable on supply of plastic toys under CGST & SGST?"*

<sup>1</sup> Gujarat Authority for Advance Ruling



*[b] Can the applicant claim ITC in relation to CGST-IGST separately in debit notes issued by the supplier in the current financial year i.e. 2020-21, towards the transactions for the period 2018-19"*

4. GAAR, post admittance & personal hearing, pronounced its ruling vide Advance Ruling No. GUJ/GAAR/R/10/2021 dated 20.1.2021 wherein it was held as under:

Answer to [a]: The classification of the product 'Plastic toys' manufactured and supplied by the applicant M/s. I-tech Plast India Pvt. Ltd., Survey No.108-109, Bhavnagar-Rajkot Highway, Shampara, Bhavnagar (as per the First Schedule to the Customs Tariff Act, 1975(51 of 1975) as well as the corresponding rate of GST (as per Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017 (as amended from time to time) is as detailed in the table below:

Sr. No.	Name of the product	Classification as per the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)	Rate of tax(GST)
01.	Plastic toys	95030030	12%(6% SGST + 6% CGST)

Answer to [b]: The applicant cannot claim Input Tax Credit in relation to CGST SGST separately in debit notes issued by the supplier in current financial year i.e. 2020-21, towards the transactions for the period 2018-19 for the reasons discussed hereinabove.

5. Subsequently, the Joint Commissioner, CGST, Bhavnagar, vide his letter dated 29.7.2021, enclosed a letter dated 20.7.2021 from Joint Director, DGGSTI<sup>2</sup> Pune, informing that a case had been booked against the appellant for misclassification of plastic toys; that the inquiry was initiated in letter mode vide letter dated 15.9.2020 and numerous subsequent emails; that the appellant vide their letter dated 14.10.2020, informed DGGSTI, Pune, that they had made a payment of tax amounting to Rs. 2.195 crores along with interest of Rs. 40.88 lacs, for clearances pertaining to the FY 2019-20.

6. As these facts were never disclosed while seeking the ruling, GAAR granted personal hearing to the appellant to decide whether the order dated 20.1.2021 was required to be declared as void ab initio in terms of sections 98 and 104 of the CGST Act, 2017.

7. GAAR, consequent to personal hearing on 8.5.2023 and 9.11.2023, vide its impugned ruling dated 3.2.2024, held that the GAAR ruling dated 20.1.2021, was **void** in terms of section 104 since it was obtained by the appellant by suppression of material facts and mis representation of facts based on the below mentioned findings *viz*

a) sequence of events depict that the first letter was sent by DGGSTI Pune to the applicant on 15.9.2020, which was further followed by various other letters;

<sup>2</sup> Directorate General of GST Intelligence





- b) Incident report No. 72/GST/2020-21 dated 29.10.2020, was issued according to which the applicant, consequent to accepting short payment of tax, paid the differential amount of IGST of Rs. 2.19 crores along with interest of Rs. 40.87 lacs for FY 2019-20 by filing GSTR 3B in the month of September 2020;
- c) that para 3 of the incident report lists the dispute; that the applicants first question before the GAAR is precisely the same *i.e.* the classification and rate of toys under CGST and SGST;
- d) that [a] the proceedings were pending against the applicant and [b] that these facts were not disclosed to the GAAR.

8. Aggrieved, the appellant is before the GAAAR<sup>3</sup>, raising the following averments, *viz*

- a) that the appellant had time and again requested for reply/response of DGGSTI, Pune or other authority, which was never supplied; that in this connection they would like to rely on the case of Kanwar Natwar Singh<sup>4</sup>;
- b) that DGGSTI in the incident report uses the word 'investigation' & 'primary scrutiny' and not 'proceedings';
- c) that the present case, is an investigation which has not culminated into proceedings;
- d) that merely because the appellant decided to pay the differential tax of 6%, it does not mean that the proceedings were pending;
- e) that the GAAR has avoided/missed para 13 of their communication dated 14.10.2020, wherein the appellant has clearly conveyed that it is in the process to analyse the correct classification;
- f) that SGST, in their communication to GAAR has informed that **proceedings** could be said to have been initiated only when SCN is issued and the investigation by DGGSTI could not be equated with proceedings;
- g) that when no proceedings were ever initiated, it cannot be said that any proceedings were pending against the appellant;
- h) that they would like to rely on the case of M/s. G K Trading Company<sup>5</sup>, Liberty Oil Mills<sup>6</sup>, Kuppan Gounder P G Natrajan<sup>7</sup>, Srico Projects P Ltd<sup>8</sup>, Somnath Flour Mills P Ltd<sup>9</sup>,
- i) that any communication by a GST authority cannot be treated as pending proceedings unless it refers to any provisions of law;
- j) that neither summons [u/s 70], nor SCN [u/s 73 or 74], has been issued;
- k) that even if inquiry by DGGSTI is deemed to be pending proceedings, such proceedings cannot be considered as proceedings initiated under any of the provisions of the Act;
- l) that they would like to rely on the master circular no. 1053/2/2017-Cx dtd 10.3.2017;
- m) that the inquiry by DGGSTI was a cross inquiry in relation to ongoing proceedings in some other case;
- n) that they would like to rely on the ruling given by Customs Advance Authority in the case of M/s. HQ Lamps Manufacturing Co. P Ltd<sup>10</sup> and M/s. Spraytec India Ltd<sup>11</sup> wherein the difference between investigation and proceedings was explained &

<sup>3</sup> Gujarat Appellate Authority for Advance Ruling

<sup>4</sup> Manu/SC/795/2010

<sup>5</sup> 2021 (51) GSTL 288 (All.)

<sup>6</sup> AIR 1984 SC 1271

<sup>7</sup> Manu/TN/6134/2021

<sup>8</sup> Manu/TL/1525/2022

<sup>9</sup> Order No. 25/WBAAR/2022-23 dated 9.2.2023

<sup>10</sup> Ruling No. CAAR/Del/HQ Lamps/2022 dated 8.8.2022

<sup>11</sup> Manu/DE/1203/2023





which further held that there is no embargo upon preferring an Advance Ruling during the pendency of the investigation;

- o) that they would like to rely on the case of Anandbhavan Properties<sup>12</sup>, Piyush Samjibhai Vasoya<sup>13</sup>, Bhavesh Kiritbhai Kalani<sup>14</sup>;
- p) that the term 'proceedings' as mentioned in proviso to section 83, *ibid*, does not cover any all steps/actions that the Department may take under Acts; that the term 'proceedings' only includes within its ambit any proceedings that may result in the nature of SCN or order etc., which can be decided by the competent authority and cannot include proceedings initiated by investigating agencies such as DGGI;
- q) that they had already informed DGGSTI that they are seeking advance ruling which clearly signifies that there was no intention of fraud, suppression or misrepresentation;
- r) that investigation undertaken by DGGSTI at best can be said to be falling under the category of 'possibility of a question arising consideration & by no means of imagination, it can fall under the category of question pending consideration;
- s) that the appellant feels that the action of DGGI was not required to be disclosed before the GAAR & therefore it should be treated as a Bonafide belief & matter of legal interpretation;
- t) that DGGI Pune has no jurisdiction to conduct inquiry.

9. Personal hearing in the matter was held on 25.6.2025, wherein Shri Tushar Hemani, Sr Advocate along with Shri Nishant Shukla, Advocate appeared on behalf of the appellant. Shri Tushar Hemani, Sr Advocate, took the authority through the appeal papers and reiterated the submissions made in the appeal. During the course of the personal hearing, they submitted the following documents viz

- a) Synopsis containing dates and events and the copies of the case laws, and ruling relied upon by the appellant;
- b) A compilation consisting of the following judgements/rulings *viz*
  - (i) Radha Krishan Industries [2021] 127 taxmann.com 26 (SC)
  - (ii) Liberty Oil Mills [1984] 3 SCC 465]
  - (iii) Smita and Sons Coal Pvt. Ltd. [2023] 147 taxmann.com 141 (Gujarat)]
  - (iv) G. K. Trading Company [2021] 126 taxmann.com 211 (Allahabad)]
  - (v) Kaish Impex Pvt. Ltd. [2020] 114 taxmann.com 300 (Bombay)]
  - (vi) Kuppan Gounder P.G. Natarajan [2022] 143 taxmann.com 289 (Madras)]
  - (vii) Rais Khan [2024] 160 taxmann.com 546 (Rajasthan)]
  - (viii) Sage Publications Ltd. U.K. [2016] 73 taxmann.com 85 (Delhi)]
  - (ix) Sage Publications Ltd. U.K. [2017] 79 taxmann.com 118 (SC)]
  - (x) CIT vs. AAR— [2020] 119 taxmann.com 80 (Delhi)
  - (xi) Srico Projects Pvt. Ltd. [2022] 113-115 142 taxmann.com 5 (Telangana)
  - (xii) Anandbhavan Properties — [2022] 141 taxmann.com 277 (Karnataka)]
  - (xiii) K. Prabhakaran vs. P. Jayarajan — [2005] 1 SCC 754
  - (xiv) Laljit Rajshi Shah and Ors [2000 2 SCC 699]
  - (xv) Relevant sections of The Indian Penal Code, 1860
  - (xvi) CBEC's Master Circular dated 10.03.2017.
- c) Copy of the judgement of the Hon'ble Supreme Court in the case of Rajeev Bansal<sup>15</sup>, and ruling of TNAAR in the case of Tamilnadu Medical Council<sup>16</sup>

<sup>12</sup> 2022 (141) taxmann.com 277 (Karnataka)

<sup>13</sup> SCA 16437/2020

<sup>14</sup> 2021 (127) taxmann.com 199 (Gujarat)

<sup>15</sup> 2024 (167) taxmann.com 70 (SC)

<sup>16</sup> 2024 (164) taxmann.com 133 (AAAR-Tamilnadu)





10. Shri M.J.Tala, Assistant Commissioner, SGST, Bhavnagar, appeared on behalf of Revenue. He submitted a copy of letter no. ACST/U-76/BVN/2025-26/OWNo. 2185 dated 24.6.2025 from Asst. Commissioner, Sales Tax (1), Unit 76, Bhavnagar, addressed to the Registrar, GAAAR, Ahmedabad, *inter alia* reiterating that the letter dated 15.9.2020, issued by DGGI, Pune, does not contain any of the sections of CGST Act, 2017 & hence there is reason to believe that it is an enquiry rather than proceedings; that provisions of section 98(2), *ibid*, would only be attracted when a SCN<sup>17</sup> or an order is already passed on the question on which a ruling is sought; that in the present matter, the proviso to section 98(2), *ibid*, will not be attracted.

### **FINDINGS**

11. We have carefully gone through and considered the appeal papers, written submissions filed by the appellant, submissions made at the time of personal hearing, the Advance Ruling given by the GAAR and other materials available on record.

12. The facts having been mentioned *supra*, for brevity, we do not wish to repeat it. The only issue before the authority as far as the present appeal is concerned is whether the GAAR vide its impugned finding was correct in holding that the ruling dated 20.1.2021 was void on the grounds that it was obtained by suppression of material facts & misrepresentation of facts.

13. For ease of reference we would like to reproduce sections 98 and 104, of the CGST Act, 2017, *viz* [relevant extracts]

#### ***Section 98. Procedure on receipt of application.-***

*(1) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the concerned officer and, if necessary, call upon him to furnish the relevant records:*

***Provided*** that where any records have been called for by the Authority in any case, such records shall, as soon as possible, be returned to the said concerned officer.

*(2) The Authority may, after examining the application and the records called for and after hearing the applicant or his authorised representative and the concerned officer or his authorised representative, by order, either admit or reject the application:*

***Provided*** that the Authority shall not admit the application where the question raised in the application is already pending or decided in any proceedings in the case of an applicant under any of the provisions of this Act:

***Provided*** further that no application shall be rejected under this sub-section unless an opportunity of hearing has been given to the applicant:

***Provided*** also that where the application is rejected, the reasons for such rejection shall be specified in the order.

<sup>17</sup> Show Cause Notice



**Section 104. Advance ruling to be void in certain circumstances. -**

(1) Where the Authority or the Appellate Authority<sup>1</sup>[or the National Appellate Authority] finds that advance ruling pronounced by it under sub-section (4) of section 98 or under sub-section (1) of section 101<sup>2</sup>[or under section 101C] has been obtained by the applicant or the appellant by fraud or suppression of material facts or misrepresentation of facts, it may, by order, declare such ruling to be void ab-initio and thereupon all the provisions of this Act or the rules made thereunder shall apply to the applicant or the appellant as if such advance ruling had never been made:

**Provided** that no order shall be passed under this sub-section unless an opportunity of being heard has been given to the applicant or the appellant.

**Explanation.**-The period beginning with the date of such advance ruling and ending with the date of order under this sub-section shall be excluded while computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74<sup>3</sup>[or sub-sections (2) and (7) of section 74A]

(2) A copy of the order made under sub-section (1) shall be sent to the applicant, the concerned officer and the jurisdictional officer.

14. The sequence of events, leading to the ruling dated 20.1.2021 being declared void vide ruling dated 3.2.2024, is not being factually disputed. The primary averment of the appellant, against the impugned order dated 3.2.2024 is that no 'proceedings' were initiated by DGGI and hence there was no suppression of fact.

15. Serial No. 17 of the Form GST ARA-01, which is the Application form for Advance Ruling, states as under:

17.	I hereby declare that the question raised in the application is not (tick) - <input checked="checked" type="checkbox"/>
a.	Already pending in any proceedings in the applicant's case under any of the provisions of the Act
b.	Already decided in any proceedings in the applicant's case under any of the provisions of the Act

The onus therefore, is on the applicant to declare whether there are any proceedings pending/decided, against him under any provisions of the Act, in respect of the question on which a ruling is being sought. The applicant, in his application dated 30.11.2020, declared that there is no pending/decided proceedings against him. The term 'proceedings' is not defined under the Act.

16. Shri Tushar Hemani, Sr. Advocate, during the course of personal hearing, relying on sections 66, 98(2), 104 and 151, *ibid*, informed that the word scrutiny/inquiry, investigation, proceedings, have different connotations. He further stressed that there was no proceedings either pending or decided when the appellant preferred the application before GAAR and that this being the factual matrix, they were not legally bound to inform the sequence of events leading to payment of differential duty to the Authority.





17. In the interregnum, DGGSTI, Pune, has issued SCN No. DGGI/Int/Intl/76/2020-Gr.B-O/o-ADG-DGGI-ZU-Pune dated 28.6.2024, demanding IGST amount of Rs. 2.52 crores for the period 7/2017 to 3/2019 under section 73(1) of the CGST Act, 2017 read with section 20 of the IGST Act, 2017 invoking the provisions of explanation of section 104 of the CGST Act, 2017. The SCN also notes the following:

7.2 M/s I-Tech vide letter dated 15.04.2024 (RUD-5) submitted following details: -

i. They have paid differential GST of Rs. 2,19,50,311/- along with interest of Rs. 40,87,542/- for the period F.Y. 2019-20 vide Debit Entry No. DC2410200116140 dated 14.10.2020 and differential GST of Rs. 94,61,677/- for the period April 2020 to September 2020 vide Debit Entry No. DC2412200219677 dated 18.12.2020.

The SCN further states that, vide their letter dated 14.10.2020, appellant informed DGGI that they had started charging GST as per residuary entry @ 18% wef 1.10.2020.

18. What is, therefore, evident from the above is the following:

- [a] for the demand in respect of the period 7/2017 to 3/2019, a SCN dated 28.6.2024 has been issued by DGGSTI, Pune;
- [b] that for the period from 4/2019 to 9/2020, the differential duty, along with interest, where applicable, stands paid by the appellant;
- [c] that the appellant chose to discharge GST as per the residuary entry @ 18% wef 1.10.2020.

19. Thus, it is evident that the proceedings under section 73, *ibid*, were pending, especially since an amount of Rs. 2.19 crores along with interest of Rs. 40.87 lacs in respect of the period 2019-20 was paid just before filing of the application dated 30.11.2020, before the GAAR, which clearly evidences the fact that for the FY 2019-20, the applicant sought to comply with the findings of the proceedings started by the DGGI, Pune which stands substantiated vide the submission of the appellant to the DGGI, Pune vide their letter dated 15.4.2024, reproduced above. These facts were never disclosed before the Advance Ruling Authority (GAAR) at the material time or any time before the ruling was given.

20. Section 104, *ibid*, provides for declaration of a ruling to be termed as void, if the same has been obtained by fraud or suppression of material facts or misrepresentation of facts.

21. The appellant has further stated that that DGGSTI in the incident report uses the word 'investigation' & 'primary scrutiny' and not 'proceedings'; that when no proceedings were ever initiated, it cannot be said that any proceedings were pending against the appellant. This averment is not legally tenable, in view of the facts narrated above. Further, the averment that merely because the appellant decided to pay the



differential tax of 6%, it does not mean that the proceedings were pending, fails because by discharging the differential duty, the purpose of the appellant was two fold [a] to avoid litigation and [b] closure of the proceedings under section 73, *ibid*.

22. The appellant has further stated vide their communication dated 14.10.2020, that they had conveyed to DGGSTI Pune that they are in the process to analyse the correct classification. The non-disclosure is to the GAAR and not to DGGSTI. The averment that since they had conveyed that they are in process of analyzing the classification to DGGSTI Pune, it tantamounts to disclosure before GAAR is not a plausible argument and does not absolve the appellant from not disclosing these facts to the GAAR.

23. The appellant has further stated that even the SGST, in their communication to GAAR had informed that ***proceedings*** could be said to have been initiated only when SCN is issued and the investigation by DGGI could not be equated with proceedings. The view does not appear to be correct when examined with the facts of the matter. Even otherwise, the view/opinion of the SGST officer, is not binding on the Authority.

24. An averment has also been raised questioning the jurisdiction of DGGSTI Pune to conduct the inquiry. While jurisdiction does not figure amongst the seven issues listed in section 97(2), *ibid*, on which rulings can be sought, we still deem it appropriate to hold that the averment made is not legally tenable since notification No. 14/2017-CT dated 1.7.2017, grants all India jurisdiction to the officers of DGGSTI.

25. The next averment raised by the appellant is that they were not provided/supplied with the correspondence dated 20.7.2021 and incident report dated 29.10.2020. The letter dated 20.7.2021, is a communication of DGGI Pune to CGST Bhavnagar, mentioning the sequence of events. The extract that has been relied upon in the impugned order is a set of correspondences between the appellant and DGGI, copies of which are already available with the appellant. Further, as far as Incident Report is concerned, it is an internal document of the department, and in terms of CBIC instruction No. 01/2020-21 dated 11.06.2020 (amended vide corrigendum dated 14.09.2021) is for creation of a centralized GST offence database. This incident report is never shared with the assessee/tax payer. Even otherwise, what is mentioned in the letter *supra*, and the incident report, is not being factually denied even by the appellant at this stage. The appellant has also failed to point out the prejudice that was caused owing to the letter and incident report not being supplied to him more so since what is used in the ruling are facts mentioned therein which are uncontroverted. Therefore, we find that non provision of the same has not prejudiced the appellant to affect his principles of natural justice.





26. From the perusal of the relevant statutory provisions, viz Section 98(2) and Section 104 of the CGST Act, 2017, it is seen that Section 98(2) enjoins the meeting of a certain threshold before which an application for advance ruling is considered. Once that threshold is crossed, the mandate of Section 104 comes into the picture which enjoins the applicant to disclose all the material facts before the Advance Ruling authority for it to take a considered view.

26.1 In this regard, the facts narrated above and also contained in the impugned order, are that, pursuant to a letter from the DGGI, Pune vide their letter dated 15.9.2020, followed by other correspondences, M/S I. Tech conveyed to the DGGI that they discharged their tax liabilities, along with due interest, for the year 2019-20 on 14.10.2020. They also conveyed vide their letter dated 14.10.2020 that, with effect from 1.10.2020, they had started to charge the tax rate of 18%, ie, the rate contended by the DGGI to be the correct rate. All these facts, though directly related to the issue raised before the Advance Ruling Authority in the instant case, were never disclosed in their application dated 30.11.2020. Subsequently, on 18.12.2020, the applicant also discharged their tax liability with interest, for the period April, 2020 to September, 2020. This was much before the Advance Ruling authority passed it's ruling on 20.01.2021. All these facts, intricately related to the issue to be decided by the Advance Ruling Authority in the instant case, were required to be disclosed by the applicant. However, they manifestly failed to do so. Hence, we are of the considered opinion that they have failed to cross the bar of Section 104 of CGST Act, 2017, as they have withheld crucial information from the Advance Ruling authority.

27. The appellant has relied upon a plethora of case laws to substantiate his averments viz

1	M/s. G K Trading Company [2021 (51) GSTL 288 (All).	The Hon'ble Court was dealing with the meaning of the words inquiry under section 70 and the word proceeding as appearing in section 6(2)(b), <i>ibid</i> .
2	Liberty Oil Mills AIR 1984 SC 1271	The Hon'ble Supreme Court in this case explains the word investigation, to mean no more than the process of collection of evidence or gathering of material.
3	Kuppan Gounder P G Natrajan [Manu/TN/6134/2021	The Hon'ble Court was dealing with the meaning of the words inquiry under section 70 and the word proceeding as appearing in section 6(2)(b), <i>ibid</i> .
4	Srico Projects P Ltd [Manu/TL/1525/2022]	The facts of the case reveal that the petitioner approached the AAR in 2019 seeking a ruling.



		<p>Consequently, DGGSTI issued a letter in the year 2021. The application of the petitioner was rejected by AAR after three years on the grounds that their case falls under section 98(2), <i>ibid</i>. The Hon'ble High Court held that proceedings pending or decided would mean proceedings where question raised in the application has already been decided or is pending; that inquiry or investigation would not come within the ambit of the word proceedings.</p> <p>The present dispute before us, factually differs from this case in so far as the applicant approached the AAR consequent to the letter from DGGI, Pune and when they were in the midst of availing the benefit of closure of proceedings.</p>
5	Somnath Flour Mills P Ltd [Order No. 25/WBAAR/22-23 dtd 9.2.2023]	In terms of Section 103 of the CGST Act, 2017, the rulings of AAR is binding only on the applicant and the jurisdictional officer. Therefore the reliance on these AAR rulings is not tenable.
6	M/s. HQ Lamps Manufacturing Co. P Ltd [Ruling No. CAAR/Del/HQ/lamps/09/2022 dated 8.8.2022]	
7	M/s. Spraytec India Ltd [Manu/DE/1203/2023]	The judgement of the Hon'ble Court pertains to ruling of Customs Advance Ruling Authority wherein DRI alleged that the applicant had not disclosed the investigation against them.
8	Radha Krishan Industries [2021] 127 taxmann.com 26 (SC)]	<p>The Hon'ble Court held that the provisional attachment is to be issued during the pendency of proceedings under section 62 or 63 or 67 or 73 or 74; that the provisional attachment order was passed before the proceedings were initiated under section 74.</p> <p>The present dispute is not relating to provisional attachment. The reliance therefore on this case is not tenable.</p>
9	Smita and Sons Coal Pvt. Ltd. [2023] 147 taxmann.com 141 (Gujarat)]	This case also relates to provisional attachment under section 83. The present dispute is not relating to provisional attachment. The reliance therefore on this case is not tenable.
10	Kaish Impex Pvt. Ltd. [2020] 114 taxmann.com 300 (Bombay)]	This case also relates to provisional attachment under section 83. The present dispute is not relating to provisional attachment. The reliance therefore on this case is not tenable.
11	Rais Khan [2024] 160 taxmann.com 546 (Rajasthan)]	The Hon'ble Court was dealing with the meaning of the words inquiry under section 70 and the word proceeding as appearing in section 6(2)(b), <i>ibid</i> .
12	Sage Publications Ltd. U.K. [2016] 73 taxmann.com 85 (Delhi)]	The case pertains to Advance Ruling under the Income Tax Act wherein the Hon'ble Court held that issuance of notice under section 143(2) of the Income Tax Act would be insufficient to attract automatic





		rejection.
13	Sage Publications Ltd. U.K. [2017] 79 taxmann.com 118 (SC)]	The case pertains to Advance Ruling under the Income Tax Act wherein the Hon'ble Court held that issuance of notice under section 143(2) of the Income Tax Act would be insufficient to attract automatic rejection.
14	CIT vs. AAR— [2020] 119 taxmann.com 80 (Delhi)	This matter also pertains to Advance Ruling under the Income Tax Act and therefore the reliance is not tenable.
15	K. Prabhakaran vs. P. Jayarajan — [2005] 1 SCC 754	The case law is a judgement in respect of a CA under the Representation of Peoples Act, 1951.
16	Laljit Rajshi Shah and Ors [2000 2 SCC 699]	The appellant it seems has relied upon the case to substantiate his point regarding interpretation of statutes to substantiate their argument that no proceeding was pending.

It is worthwhile to examine their precedential value in the facts of the present case in the light of the decision of the Hon'ble SC in case of Collector of C. EX., Calcutta vs Alnoori Tobacco Products- 2004 (170) E.L.T. 135 (S.C.). The Hon'ble SC laid down the ground rules for following the decisions as precedences, with the following observation-

*"11. Courts should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes. In London Graving Dock Co. Ltd. v. Horton (1951 AC 737 at p. 761), Lord Mac Dermot observed :*

*"The matter cannot, of course, be settled merely by treating the ipsissima verba of Willes, J as though they were part of an Act of Parliament and applying the rules of interpretation appropriate thereto. This is not to detract from the great weight to be given to the language actually used by that most distinguished judge."*

*12. In Home Office v. Dorset Yacht Co. [1970 (2) All ER 294] Lord Reid said, "Lord Atkin's speech..... is not to be treated as if it was a statute definition. It will require qualification in new circumstances." Megarry, J in (1971) 1 WLR 1062 observed: "One must not, of course, construe*



even a reserved judgment of Russell L.J. as if it were an Act of Parliament." And, in *Herrington v. British Railways Board* [1972 (2) WLR 537] Lord Morris said :

*"There is always peril in treating the words of a speech or judgment as though they are words in a legislative enactment, and it is to be remembered that judicial utterances made in the setting of the facts of a particular case. "*

13. *Circumstantial flexibility, one additional or different fact may make a world of difference between conclusions in two cases. Disposal of cases by blindly placing reliance on a decision is not proper.*

14. *The following words of Lord Denning in the matter of applying precedents have become locus classicus :*

*"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect, in deciding such cases, one should avoid the temptation to decide cases (as said by Cordozo) by matching the colour of one case against the colour of another. To decide therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."*

Viewed in the light of the above decision of the Hon'ble Supreme Court, we find that in none of the cases cited by the applicant herein, the issue of interpretation of Section 104 of CGST Act, 2017 was considered. However, in the instant case, we have already held that material facts were withheld from the Advance Ruling Authority in this case warranting declaration of the Advance Ruling given vide GAAR Order No. GUJ/GAAR/R/10/2021 dated 20.01.2021 to be void in terms of the provisions of Section 104 of the CGST Act, 2017.

28. In view of the above findings, we reject the appeal filed by appellant M/s. I-Tech Plast India Pvt. Ltd, against Advance Ruling No. GUJ/GAAR/R/2024/04 dated 3.2.2024 of the Gujarat Authority for Advance Ruling.

**( Rajeev Topno )**  
**Member (SGST)**

Place: Ahmedabad  
Date: .07.2025



**(Sunil Kumar Mall)**  
**Member (CGST)**