

# SC Backs Clause that Allowed Exporters to Claim Credit

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**New Delhi:** The Supreme Court on Friday upheld the validity of mandatory fulfilment of a “pre-import condition” that allowed exporters to claim credit of raw materials bought before actually exporting the product.

It set aside the Gujarat High Court’s ruling that held that such fulfilment in order to claim exemption of Integrated Goods and Services Tax (IGST) and GST compensation cess on input imported for the production of goods to be exported on the strength of an advance authorisation (AA) was arbitrary and unreasonable. The scheme was incorporated in the Foreign Trade Policy of 2015-2020 (FTP), Handbook of Procedures (HBP) and various 2017 notifications. A bench led by Justice S Ravindra Bhatt, however, directed the revenue to permit exporters, who enjoyed interim orders till the high court gave the final ruling, to claim refund or input credit (whichever applicable and/or wherever customs duty was paid).

For doing so, the court asked exporters to approach the jurisdictional commissioner and apply with documentary evidence within six weeks. “The claim for refund/credit, shall be examined on their merits, on a case-by-case basis. For the sake of convenience, the revenue shall direct the appropriate procedure to be followed, conveniently, through a circular, in this regard,” said the Supreme Court judgement.

Abhishek A Rastogi, founder of Rastogi Chambers, who argued on behalf of Indian exporters, said the upholding of constitutional aspect of the condition does not necessarily mean demand and recovery. “Notices will have to be responded with proper facts/ figures along with relevant import data to show how pre-import condition has been fulfilled. There may be cases where some of the bills of entry might have complied with pre-import condition,” he said.