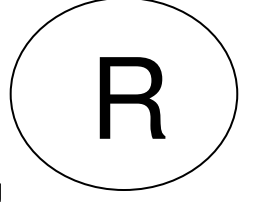


Reserved on : 20.02.2026
Pronounced on : 17.03.2026



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT APPEAL No. 110 OF 2026 (T-RES)

C/W

WRIT APPEAL No. 119 OF 2026 (T-RES)

WRIT APPEAL No. 122 OF 2026 (T-RES)

WRIT APPEAL No. 126 OF 2026 (T-RES)

WRIT APPEAL No. 140 OF 2026 (T-RES)

IN WA No. 110/2026

BETWEEN:

1. ASSISTANT COMMISSIONER OF CENTRAL TAXES
NORTH WEST DIVISION-1,
NORTH WEST COMMISSIONERATE,
2ND FLOOR, BMTc COMPLEX,
SHIVAJINAGAR BUS STAND,
BENGALURU - 560 051.
2. CENTRAL BOARD OF INDIRECT TAXES AND
CUSTOMS,
REPRESENTED HEREIN BY
THE CHAIRMAN
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE,



**WA No. 110 of 2026
C/W WA No. 119 of 2026
WA No. 122 of 2026
AND 2 OTHERS**

GOVERNMENT OF INDIA, NORTH BLOCK,
NEW DELHI - 110 001.

3. THE UNION OF INDIA
REPRESENTED HEREIN BY
THE SECRETARY
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE
GOVERNMENT OF INDIA, NORTH BLOCK,
NEW DELHI - 110 001.

...APPELLANTS

(BY SRI ARAVIND V. CHAVAN, SENIOR STANDING COUNSEL)

AND:

1. M/S MERCK LIFE SCIENCE PRIVATE LIMITED
REPRESENTED BY ITS AUTHORISED SIGNATORY
MS. SNEHA PATIL,
AGED ABOUT 35 YEARS,
DAUGHTER OF PANDURANG PATIL,
HAVING OFFICE AT GODREJ ONE,
8TH FLOOR, PRIOJSHA NAGAR,
EASTERN EXPRESS HIGHWAY,
VIKHROLI (EAST) MUMBAI - 400 079.

...RESPONDENT

(BY SRI BHARATH B. RAICHANDANI, ADVOCATE FOR C/R1)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED
BY THE LEARNED SINGLE JUDGE IN WP No.27259/2024 (T-
RES) DATED 07.11.2025.

IN WA No.119/2026

BETWEEN:

1. ASSISTANT COMMISSIONER OF CENTRAL TAXES
NORTH WEST DIVISION-1,
NORTH WEST COMMISSIONERATE,

2ND FLOOR, BMTc COMPLEX,
SHIVAJINAGAR BUS STAND,
BENGALURU - 560 051.

2. CENTRAL BOARD OF INDIRECT TAXES
AND CUSTOMS
REPRESENTED HEREIN BY
THE CHAIRMAN
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE,
GOVERNMENT OF INDIA, NORTH BLOCK,
NEW DELHI - 110 001.
3. THE UNION OF INDIA
REPRESENTED HEREIN BY
THE SECRETARY
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE
GOVERNMENT OF INDIA, NORTH BLOCK,
NEW DELHI - 110 001.

...APPELLANTS

(BY SRI ARAVIND V. CHAVAN, SENIOR STANDING COUNSEL)

AND:

1. M/S. MERCK LIFE SCIENCE PRIVATE LIMITED
REPRESENTED BY ITS
AUTHORISED SIGNATORY
MS. SNEHA PATIL,
AGED ABOUT 35 YEARS,
DAUGHTER OF PANDURANG PATIL,
HAVING OFFICE AT GODREJ ONE,
8TH FLOOR, PRIOJSHA NAGAR,
EASTERN EXPRESS HIGHWAY,
VIKHROLI (EAST), MUMBAI - 400 079.

...RESPONDENT

(BY SRI BHARATH B. RAICHANDANI, ADVOCATE FOR C/R1)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE

ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP No.
27691/2024 (T-RES) DATED 07.11.2025.

IN WA No. 122/2026

BETWEEN:

1. ASSISTANT COMMISSIONER OF CENTRAL TAXES
NORTH WEST DIVISION-1,
NORTH WEST COMMISSIONERATE,
2ND FLOOR, BMTC COMPLEX,
SHIVAJINAGAR BUS STAND,
BENGALURU - 560 051.
2. CENTRAL BOARD OF INDIRECT TAXES
AND CUSTOMS
REPRESENTED HEREIN BY
THE CHAIRMAN
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE,
GOVERNMENT OF INDIA,
NORTH BLOCK,
NEW DELHI - 110 001.
3. THE UNION OF INDIA
REPRESENTED HEREIN BY
THE SECRETARY
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE,
GOVERNMENT OF INDIA,
NORTH BLOCK,
NEW DELHI - 110 001.

...APPELLANTS

(BY SRI ARAVIND V. CHAVAN, SENIOR STANDING COUNSEL)

AND:

1. M/S MERCK LIFE SCIENCE PRIVATE LIMITED
REPRESENTED BY ITS
AUTHORISED SIGNATORY
MS. SNEHA PATIL,

AGED ABOUT 35 YEARS,
DAUGHTER OF PANDURANG PATIL,
HAVING OFFICE AT GODREJ ONE,
8TH FLOOR, PRIOJSHA NAGAR,
EASTERN EXPRESS HIGHWAY,
VIKHROLI (EAST),
MUMBAI - 400 079.

...RESPONDENT

(BY SRI BHARATH B. RAICHANDANI, ADVOCATE FOR C/R1)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP No.
28151/2024 (T-RES) DATED 07.11.2025.

IN WA No. 126/2026

BETWEEN:

1. ASSISTANT COMMISSIONER OF CENTRAL TAXES,
NORTH WEST DIVISION-1,
NORTH WEST COMMISSIONERATE,
2ND FLOOR, BMTC COMPLEX,
SHIVAJINAGAR BUS STAND,
BENGALURU - 560 051.
2. CENTRAL BOARD OF INDIRECT TAXES
AND CUSTOMS
REPRESENTED HEREIN BY
THE CHAIRMAN
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE,
GOVERNMENT OF INDIA, NORTH BLOCK,
NEW DELHI - 110 001.
3. THE UNION OF INDIA
REPRESENTED HEREIN BY
THE SECRETARY
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE

**WA No. 110 of 2026
C/W WA No. 119 of 2026
WA No. 122 of 2026
AND 2 OTHERS**

GOVERNMENT OF INDIA, NORTH BLOCK,
NEW DELHI - 110 001.

...APPELLANTS

(BY SRI ARAVIND V. CHAVAN, SENIOR STANDING COUNSEL)

AND:

1. M/S MERCK LIFE SCIENCE PRIVATE LIMITED
REPRESENTED BY ITS
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MS. SNEHA PATIL,
AGED ABOUT 35 YEARS,
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8TH FLOOR, PRIOJSHA NAGAR,
EASTERN EXPRESS HIGHWAY,
VIKROLI (EAST) MUMBAI - 400 079.

...RESPONDENT

(BY SRI BHARATH B. RAICHANDANI, ADVOCATE FOR C/R1)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP No.
27691/2024 (T-RES) DATED 07.11.2025.

IN WA No. 140/2026

BETWEEN:

1. ASSISTANT COMMISSIONER OF
CENTRAL TAXES
NORTH WEST DIVISION-1,
NORTH WEST COMMISSIONERATE,
2ND FLOOR, BMTc COMPLEX,
SHIVAJINAGAR BUS STAND,
BENGALURU - 560 051.
2. CENTRAL BOARD OF INDIRECT TAXES
AND CUSTOMS
REPRESENTED HEREIN BY

**WA No. 110 of 2026
C/W WA No. 119 of 2026
WA No. 122 of 2026
AND 2 OTHERS**

THE CHAIRMAN
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE,
GOVERNMENT OF INDIA, NORTH BLOCK,
NEW DELHI - 110 001.

3. THE UNION OF INDIA
REPRESENTED HEREIN BY THE SECRETARY
DEPARTMENT OF REVENUE,
MINISTRY OF FINANCE
GOVERNMENT OF INDIA,
NORTH BLOCK,
NEW DELHI - 110 001.

...APPELLANTS

(BY SRI ARAVIND V. CHAVAN, SENIOR STANDING COUNSEL)

AND:

1. M/S MERCK LIFE SCIENCE PRIVATE LIMITED
REPRESENTED BY ITS
AUTHORISED SIGNATORY
MS. SNEHA PATIL,
AGED ABOUT 35 YEARS,
DAUGHTER OF PANDURANG PATIL,
HAVING OFFICE AT GODREJ ONE,
8TH FLOOR, PRIOJSHA NAGAR,
EASTERN EXPRESS HIGHWAY,
VIKROLI (EAST)
MUMBAI - 400 079.

...RESPONDENT

(BY SRI BHARATH B. RAICHANDANI, ADVOCATE FOR C/R1)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED BY THE LEARNED SINGLE JUDGE IN WP No.27261/2024 DATED 07.11.2025 AND PASS SUCH OTHER SUITABLE ORDERS.

THESE APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, **K.V. ARAVIND J.**, DELIVERED THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE K. V. ARAVIND

C.A.V. ORDER

(PER HON'BLE Mr. JUSTICE K. V. ARAVIND)

Heard Sri Aravind V. Chavan, learned Senior Standing Counsel for the appellants-Revenue and Sri Bharath B. Raichandani, learned counsel for the respondent-Assessee.

2. The Revenue has preferred these intra-Court appeals under Section 4 of the Karnataka High Court Act, 1961, impugning the order dated 07.11.2025 passed by the learned Single Judge in W.P. No.27259/2024 (T-RES) and four other petitions.

All the appeals raise common questions. Learned counsel appearing on both sides addressed common submissions. Hence, the appeals are disposed by common judgment.

For convenience, the facts in Writ Appeal No.110/2026 are referred.

A. Facts in brief:

3. The respondent-assessee is a company engaged in the business of healthcare, life sciences, and electronics, providing

intermediary services to foreign entities and earning commission income therefrom. The assessee filed its return in Form GSTR-3B for the tax period October 2017 and paid Integrated Goods and Services Tax (IGST). Subsequently, the assessee filed another return in Form GSTR-3B in March 2018 and paid Central Goods and Services Tax (CGST) and State Goods and Services Tax (SGST).

3.1 In the return filed earlier, the services were treated as “export of services”, and IGST was paid. However, in the return filed in March 2018, the assessee paid CGST and SGST, treating the transaction as intra-State supplies. It is stated that the erroneous payment of IGST was not refunded. Notification No.35/2021–Central Tax dated 24.09.2021 inserted Rule 89(1A) of the Central Goods and Services Tax Rules, 2017 (for short, “CGST Rules”), prescribing the procedure and timelines for claiming refund.

3.2 It is further stated that circulars were issued by the GST authorities to give effect to Rule 89(1A). The application filed by the assessee under Section 54 of the Central Goods and Services Tax Act, 2017 (for short, “CGST Act”) came to be

rejected on the ground that it was filed beyond the prescribed period. It was held that although Rule 89(1A) came into effect from 24.09.2021, a period of two years was provided to claim refund in respect of cases that had arisen prior to the Rules coming into force. The application for refund filed by the assessee is dated 30.03.2024. Accordingly, by order dated 27.05.2024 at Annexure-B, the claim for refund was rejected. Aggrieved by the order rejecting the refund, the assessee preferred a writ petition.

3.3 In the impugned order, the learned Single Judge allowed the writ petition. The learned Single Judge, while setting aside the order rejecting the refund, held that Section 54 of the CGST Act and Rule 89(1A) of the CGST Rules are directory in nature and not mandatory. The learned Single Judge further held that the wrongful payment of IGST is not disputed by the authorities, and therefore, the rejection of the refund claim due to it being filed belatedly is incorrect. While holding so, the learned Single Judge declared that the refund application is not belated and directed the authorities to pass appropriate orders on the refund application within the prescribed time frame.

B. Submissions:

(i). On behalf of Revenue:

4. Sri Aravind V. Chavan, learned Senior Standing Counsel for the appellants–Revenue, submits that Section 54 enables a claim for refund of any tax. The provision prescribes a period of two years from the relevant date, within which such claim is required to be made in the prescribed form and manner. It is further submitted that the period of two years prescribed under Section 54 is mandatory. According to the learned counsel, declaring the time limit under Section 54 as directory, as held by the learned Single Judge, would amount to re-writing the statutory provision, which is impermissible in law.

4.1 The learned Senior Standing Counsel further submits that sub-rule (1A) of Rule 89 came into effect from 24.09.2021. Since the prescribed Form was not available till that date, the proviso to sub-rule (1A) of Rule 89 provided a period of two years from the date on which the sub-rule came into force for claiming refund. It is submitted that the refund claim was not made either within the period prescribed under Section 54 or within the time stipulated under Rule 89(1A). The assessee, having failed to claim the refund within the prescribed time,

cannot now seek the benefit of refund, which would otherwise amount to unjust enrichment.

4.2 It is further submitted that when a specific procedure and timelines are prescribed for claiming refund, the same must necessarily be complied with within the stipulated period. According to the learned counsel, the time limit prescribed has relevance to other adjudicatory procedures under the Act. If the period of limitation prescribed under Section 54 is construed as directory and not mandatory, and consequently no limitation is enforced, the other adjudicatory proceedings under the Act, which are intended to be time-bound, would be rendered nugatory.

4.3 It is further submitted that the learned Single Judge has not considered the object of prescribing the timeline under Section 54, and that the said provision is mandatory in nature. It is contended that the authorities, being bound by the provisions of the Act and the Rules, have acted strictly in accordance with the plain language of the statute, and therefore cannot be said to have committed any error in law.

4.4 With the above submissions, the learned Senior Standing Counsel contends that the order passed by the learned Single Judge is unsustainable in law. It is submitted that the order rejecting the refund claim is justified. Accordingly, he prays that the writ appeal be allowed.

(ii). On behalf of Assessee;

5. Sri Bharath B. Raichandani, learned counsel for the respondent-assessee, submits that the assessee had initially treated the services rendered as "export of services" and accordingly paid IGST to the Central Government. Subsequently, upon realizing that the transaction constituted an intra-State supply, the assessee paid SGST. In view of the payment of both IGST and SGST, the assessee filed an application for refund under Section 54 of the Act on 30.03.2024.

5.1 It is submitted that Section 54 of the Act enables an assessee to claim refund by making an application before the expiry of two years from the relevant date, in such manner as may be prescribed. It is further submitted that the rules governing refund were notified only later by inserting sub-rule

(1A) to Rule 89, which came into effect from 24.09.2021. It is contended that though the GST in question was paid during several months in the year 2017, the mechanism for claiming refund was provided only from 24.09.2021. Therefore, according to the learned counsel, the plain reading of Section 54 of the Act indicates that filing an application within two years from the relevant date is directory in nature and not mandatory.

5.2 The learned counsel further submits that when tax is paid without authority of law, the timeline prescribed under Section 54 of the Act is not applicable. It is contended that the Revenue can retain taxes only in accordance with law, as mandated under Article 265 of the Constitution of India. It is further submitted that if the refund is denied on technical grounds, the same would result in unjust enrichment in the hands of the Revenue.

5.3. The learned counsel further submits that, having regard to the facts of the present case, the taxes were paid twice, once as IGST and again as CGST & SGST. Therefore, the incorrect payment of IGST is liable to be refunded without

raising any plea based on technicalities. It is submitted that the refund application dated 30.03.2024 was filed within a reasonable time, and the learned Single Judge was justified in directing the authorities to process the refund application by holding that an application under Section 54 is not governed by any limitation. Accordingly, he prays that the appeal be dismissed.

C. Points for Consideration:

6. Having considered the submissions made by the learned counsel for the parties and upon perusal of the appeal papers, the following points arise for consideration by this Court:

- (i) Whether filing of an application within the time provided under Section 54 of the CGST Act is mandatory?
- (ii) If Point No.(i) is answered in the affirmative, is the Assessee/registered person left with no remedy to claim genuine refunds?
- (iii) What is the mechanism to condone the delay in filing the refund application under Section 54 of CGST Act.

D. Scheme of GST Act:

7. Before proceeding to answer the above points, it is necessary to analyze the scheme of the Act.

7.1 Chapter III of the Act deals with the levy and collection of tax. This Chapter provides for the scope of supply, liability, levy and collection of tax, and the power to grant exemption from the levy of tax.

7.2 Chapter V deals with Input Tax Credit in respect of taxes paid on the supply of goods or services used in the course or furtherance of business.

7.3 Chapter VII deals with Tax Invoice, Credit and Debit Notes. Section 31 mandates that a registered person supplying taxable goods shall, before or at the time of removal of the goods for supply to the recipient, or at the time of delivery of goods or making them available to the recipient, issue a tax invoice showing the description, quantity and value of goods, the tax charged thereon, and such other prescribed particulars.

7.4 Chapter VIII deals with Accounts and Records, requiring a registered person to maintain true and correct accounts of

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production or manufacture of goods, inward and outward supply of goods or services, stock of goods, input tax credit availed, output tax payable or paid, and such other particulars as may be prescribed. Section 36 requires a registered person to keep and maintain books of account and other records until the expiry of seventy-two months from the due date of furnishing the annual return for the year to which such accounts and records pertain.

7.5 Chapter IX deals with the furnishing of returns, including details of outward supplies, inward supplies, and availment of input tax credit. Section 44 provides for the filing of an annual return by a registered person, which may include a self-certified reconciliation statement reconciling the value of supplies declared in the returns furnished for the financial year with the audited annual financial statements for that financial year, to be furnished electronically.

7.6 Chapter X deals with the payment of tax. Section 49 prescribes the manner of accounting of tax, interest, penalty, and other amounts paid. The taxes so credited are reflected in the electronic cash ledger of the registered person, which also

includes self-assessed input tax credit. The provision further enables payment of output tax liability under the Act from the amount available in the electronic credit ledger.

7.6.1 Section 49 also provides for the order of preference in the utilization of the tax available in the electronic cash ledger. Thereafter, it provides for refund in accordance with Section 54 of the Act.

7.6.2 Sub-section (8) of Section 49 mandates the discharge of tax liability through self-assessed tax, either for the previous period or the current period. Sub-section (9) further deals with the presumption that the incidence of tax has been passed on to the recipient of such goods or services or both, unless the contrary is proved.

7.6.3 Section 50 provides for interest on delayed payment of tax, Section 51 deals with Tax Deduction at Source and Section 54 provides for refund of tax.

7.7 Chapter XII deals with the assessment of tax payable under the Act by every registered person. Section 59 mandates self-assessment. Section 60 provides for provisional

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assessment, enabling a registered person to request the proper officer to determine the rate of tax applicable. Upon such request being made, the proper officer is required, in terms of sub-section (3) of Section 60, to pass the final assessment order within six months. Sub-section (4) of Section 60 imposes a liability to pay interest on the tax payable pursuant to provisional assessment. Thereafter, sub-section (5) provides for refund in accordance with Section 54, subject to necessary adjustments.

7.7.1 Similarly, Section 61 empowers the proper officer to scrutinize the returns furnished by the registered person in order to verify their correctness. If any discrepancies are noticed, the same are required to be notified to the registered person, who shall take appropriate action. If no action is taken or if a satisfactory explanation is not furnished, the proper officer may initiate appropriate proceedings, including those under Section 73 or Section 74. A similar procedure is prescribed for the assessment of non-filers of returns and unregistered persons under Section 62.

7.8 Section 73 empowers the proper officer to issue a show-cause notice and determine the amount of tax, interest, and penalty payable in cases relating to tax not paid, short paid, erroneously refunded, or input tax credit wrongly availed or utilized, for any reason other than fraud, wilful misstatement or suppression of facts.

7.8.1 Proceedings under Section 73 may be initiated within a period of three years from the due date for furnishing the annual return for the financial year to which such default relates or in which the erroneous refund is made. Sub-section (2) mandates that the show-cause notice under sub-section (1) shall be issued at least three months prior to the outer limit of three years prescribed under sub-section (10).

7.9 Section 74 can be invoked in cases where the determination of tax not paid or short paid, or erroneously refunded, or input tax credit wrongly availed or utilized is by reason of fraud, wilful misstatement, or suppression of facts. Sub-section (2) mandates that the notice under sub-section (1) shall be issued at least six months prior to the time limit prescribed under sub-section (10) for the issuance of an order.

Sub-section (10) prescribes a period of five years from the due date for furnishing the annual return for the financial year concerned for passing such order.

7.10 Sub-section (5) of Sections 73 and 74 provides that the person chargeable with tax may pay the tax along with interest and penalty, on the basis of his own ascertainment or as ascertained by the proper officer. Sub-section (6) of Sections 73 and 74 mandates that the proper officer shall not serve any notice under sub-section (1) in respect of the tax so paid or any penalty payable under the provisions of the Act.

7.11 Sub-section (7) provides that where the amount paid under sub-section (5) falls short of the amount actually payable, the proper officer shall proceed to issue a notice under sub-section (1) in respect of the amount which falls short of the actual tax payable. Sub-section (8) provides that where the tax along with interest is paid after issuance of the show-cause notice under sub-section (1) and within the prescribed time, all proceedings in respect of such notice shall be deemed to be concluded. Sub-section (9) enables the proper officer to issue

an order determining the amount of tax, interest, and penalty payable.

8. The CGST Act, 2017 does not provide for any reassessment in cases of non-payment or short payment of tax, erroneous refund, or wrongful availment or utilisation of input tax credit. The determination in such circumstances is specifically provided for under Sections 73 and 74.

8.1 When a refund application is considered, the grant of refund is not automatic. Section 54 is a code by itself, enabling multifaceted consideration of a refund claim. In the process of examining a refund application, if a situation contemplated under Sections 73 or 74 is noticed, the proper officer cannot be rendered remediless.

8.2 To enable the actions contemplated under Sections 73 and 74, the prescription of a period of two years assumes significance. The period of two years carries considerable importance and bears relevance to the periods of three years and five years contemplated under Sections 73 and 74, respectively. The only plausible reason that can be discerned for prescribing the two-year limitation is that, if any situation

contemplated under Sections 73 or 74 is noticed during the consideration of a refund application, the authorities are enabled to take appropriate remedial action, instead of allowing the taxpayer to take undue advantage.

8.3 There are strong reasons for making the above observation. If the hardship likely to be caused to the taxpayer is to be considered on the ground that a refund claim cannot be entertained after two years, and if directions are to be issued permitting such claims beyond the said period, the corresponding provisions, namely Sections 73 and 74 of the Act, must also receive equal enablement.

8.4 In the absence of such corresponding enablement, a situation may arise where a taxpayer or a registered person claims refund after three years, possibly for *bona fide* reasons, and during the consideration of such claim, the proper officer notices circumstances contemplated under Section 73 or, as the case may be, Section 74. In such an event, the proper officer cannot be rendered handicapped or left without recourse.

8.5 Therefore, any relaxation of the limitation period of two years prescribed under Section 54 must correspondingly enable extension of time, if necessary, under Sections 73 and 74 of the Act. In the absence of such corresponding enablement, relaxing the limitation of two years under Section 54 would render the statutory scheme meaningless.

E. Analysis:

Regarding Point No.(i):

9. The entire scheme of the CGST Act, 2017 is that of a time-bound enactment. Every compliance by the registered person/taxpayer as well as every action by the proper officer is governed by prescribed timelines. The time limits form the backbone of the Act, and such timelines are required to be applied strictly. If the timelines are not viewed and enforced strictly, the concept of finality in proceedings cannot be sustained.

9.1 An equitable approach is required to be adopted on both sides, namely, the registered person/taxpayer and the proper officer. The Act provides for refund under Section 54, which prescribes a period of two years from the relevant date. The

expression "relevant date" is explained in the Explanation to Section 54 with reference to different types of transactions. In residuary cases, the relevant date is the date of payment of tax.

9.2 In the above context, it is also necessary to read Section 77 along with Section 54. According to Section 77 of the Act, where a registered person has paid Central tax and State tax on a transaction considered by him to be an intra-State supply, which is subsequently held to be an inter-State supply, such person shall be entitled to refund of the taxes so paid, in such manner and subject to such conditions as may be prescribed. Similarly, where tax has been paid treating a transaction as an inter-State supply, and it is subsequently held to be an intra-State supply, the registered person shall not be required to pay any interest on the amount of Central tax and State tax payable on such supply.

9.3 A reading of Section 77 no doubt indicates that where tax has been paid under IGST treating the transaction as "export of services", and subsequently CGST and SGST are also paid

treating the transaction as an intra-State supply, the registered person would be entitled to a refund of the tax so wrongly paid.

9.4 In the present case, however, it is not necessary for this Court to adjudicate regarding the entitlement to the refund. The Revenue has made a categorical statement, and it is also evident from the stand taken that the entitlement of the assessee to the refund is not in dispute. The refund claim has been denied not on the ground of entitlement, but solely on the ground of limitation.

9.5 The proper officer, while administering the Act, is bound by the provisions enacted therein in their strict sense. There is no discretion vested in the proper officer to entertain a refund claim filed after the expiry of two years, unless specific exceptions are provided enabling such consideration. In the absence of such enabling provisions, the period of two years remains mandatory in so far as the proper officer is concerned.

9.6 Ordinarily, in taxing statutes, certain exceptions are provided conferring jurisdiction on the authorities under the Act to condone the timelines in specified situations or circumstances. However, in response to a specific query of the

Court, it has been submitted that no such enabling provision or mechanism is provided under the Act to consider grievances in cases where claims have not been made within the prescribed time, particularly in respect of refund under Section 54 of the Act.

9.7 In the absence of any enabling power either to condone the delay or to treat the period of two years as directory, the only possible interpretation of Section 54 is that the period prescribed therein is mandatory. The mere presence of the word "may", as contended, cannot always be construed as directory; the expression must take its colour as either directory or mandatory depending upon the context in which it is used.

9.8 As analysed above, having regard to the purpose behind prescribing the period of two years, we have no hesitation in holding that the said period must be read as mandatory. If such a construction is not adopted, it would confer unintended discretion upon the proper officer and may also enable a registered person/taxpayer to circumvent the provisions of Sections 73 or 74 of the Act, as the case may be.

9.9 It is a settled principle of law that a fiscal statute must be interpreted on the basis of its plain language, assigning to it its natural meaning. While interpreting such provisions, nothing can be added or omitted by implication. This is the fundamental principle governing the interpretation of fiscal statutes.

9.10 For the above reasons, we hold that Point No.(i) is to be answered in the affirmative.

Regarding Point No.(ii)

10. While answering Point No. (i), it has been held that filing an application under Section 54 within two years from the relevant date is mandatory. Section 77 mandates the refund of taxes paid in certain circumstances. However, the Act does not provide any mechanism to redress grievances or difficulties that may arise in the course of compliance with its provisions. Unless expressly provided, the proper officer or any authority under the Act cannot be conferred with such powers.

10.1 There may be instances where, due to genuine or unavoidable reasons beyond the control of the taxpayer, the period prescribed under Section 54 lapses. If no remedy is made available in such circumstances, the provision may

operate with undue harshness and arbitrariness. In the absence of any such enabling provision under the Act, the jurisdiction of this Court under Article 226 of the Constitution of India remains the only available remedy. Merely because the provision under Section 54 is held to be mandatory, it cannot be said that the jurisdiction vested in this Court under Article 226 stands excluded or rendered unavailable.

10.2 This Court may exercise its jurisdiction under Article 226 of the Constitution of India where the Act does not provide any mechanism to remedy genuine hardship. There cannot be universal guidelines or a straitjacket formula to deal with every situation. The facts and circumstances of each case, as well as the object and purpose of the provision, are required to be considered by the Court while exercising jurisdiction under Article 226. It is also a settled position of law that where the statute does not provide a remedy, as in the present case under the CGST Act, 2017, there is no bar for this Court to invoke its jurisdiction under Article 226 of the Constitution.

10.3 If reference is made to a *pari materia* provision under the Income-tax Act, 1961, the said enactment vests powers with

the Central Board of Direct Taxes (CBDT) to mitigate unintended hardship. Section 119 further enables the CBDT to delegate such powers, subject to pecuniary jurisdiction, to various Income-tax authorities under the Act. In the present case, however, no such mechanism is provided under the CGST Act, 2017, nor are any such powers vested in the proper officer or any authority under the Act to address such situations.

10.4 The bar imposed under Section 54 operates only in relation to the proper officer entertaining a refund claim after the expiry of two years. The said bar cannot be construed as being applicable to the Court while exercising its jurisdiction under Article 226 of the Constitution of India.

10.5 We are therefore of the view that where an application for refund is not filed within the time frame prescribed under Section 54 of the Act, the person claiming refund may invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India. We also declare that the writ jurisdiction would be available for an additional reason, namely that no tax can be levied or collected except by authority of law, as mandated under Article 265 of the Constitution of India.

10.6 The Hon'ble Supreme Court, in ***Dhulabhai and Others v. State of Madhya Pradesh and Others (MANU/SC/0157/1968)***, examined the exercise of jurisdiction under Article 226 of the Constitution of India to order refund where a complete mechanism is not provided under the statute. It is held as under:

"13. This Court after examining the jurisdiction under Art. 226 concluded that the High Court had the power to order refund in proceedings for a writ since complete relief could not be said to be given if only a declaration were given. The Court, however, observed :

"At the same time we cannot lose sight of the fact that the special remedy provided in Article 226 is not intended to supersede completely the modes of obtaining relief by an action in a civil court or to deny defences legitimately open in such actions."

14. Pointing out that where a defence of limitation could be raised or other issues of fact had to be tried, it was held that the Court should leave the party aggrieved to seek his remedy by the ordinary mode of a civil suit. Therefore in those cases (there were 31 appeals before this Court) where the writ was asked for within three years, this Court upheld the order of refund by the High Court in its writ jurisdiction, but in those cases in which the parties had gone to the High Court after a lapse of 3 years, the order of refund was questioned and not approved observing that the petitioners would be at liberty to seek such relief as they might be entitled to in a Civil court if it was not barred by limitation.

15. It will appear from this analysis of the case that this Court accepted the proposition that a suit lay. This it did without adverting to the provisions of the Act there considered to see whether the jurisdiction of the Civil Courts was barred or not, either expressly or by

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necessary implication. This Court was, of course, not invited to express its opinion on the matter but only on whether the High Court in its extraordinary jurisdiction could order refund of tax paid under a mistake. Having held that in some cases the High Court should not order refund, this Court merely pointed out that the civil suit would be the only other remedy open to the party. The case cannot, therefore, be treated as an authority to hold that the Civil Courts had jurisdiction to entertain such suits."

It is held that where no adequate remedy is provided under the statute and no express bar is imposed, upon examination of the scheme of the particular Act with regard to the adequacy or sufficiency of the remedies, the exercise of writ jurisdiction is permissible.

10.7 In the case on hand, Section 54 enables a claim for refund but prescribes a limitation of two years. In cases of payment of tax on two counts, where the statute contemplates only one payment, Section 77 of the Act enables refund without prescribing any limitation. When Section 77 does not impose any time limit for claiming refund, rejection of such a refund claim solely on the basis of Section 54 would indicate that the scheme of the Act is not complete. In the light of the judgment *supra*, where the statutory scheme does not provide an adequate remedy, the exercise of writ jurisdiction under Article 226 of the Constitution of India would be permissible.

10.8 In view of the peculiar facts involved in the present case, the judgments cited at the Bar are of little assistance in resolving the controversy in hand.

10.9 In **Salonah Tea Co. Ltd. and Others v. Superintendent of Taxes, Nowgong and Others**, reported in **(1988) 1 SCC 401**, the Hon'ble Supreme Court held as under:

"14. We agree that normally in a case where tax or money has been realised without the authority of law, the same should be refunded and in an application under Article 226 of the Constitution the court has power to direct the refund unless there has been avoidable laches on the part of the petitioner which indicate either the abandonment of his claims or which is of such nature for which there is no probable explanation or which will cause any injury either to respondent or any third party. It is true that in some cases the period of three years is normally taken as a period beyond which the court should not grant relief but that is not an inflexible rule."

In view of the above, where the time limit prescribed for making a refund claim under the Act has expired, the remedy under Article 226 of the Constitution of India may be invoked, however subject to and to the extent indicated while answering Point No. (iii).

Regarding Point No.(iii):

11. While analysing the provisions of the Act, we have referred to the entire scheme of the enactment. It has been held in the preceding paragraphs that the period of two years prescribed under Section 54 carries both relevance and purpose. While adopting a view to consider a belated refund claim, the remedies otherwise available to the Revenue must also be kept in view, as observed hereinabove.

11.1 If, while considering such a belated refund claim, a situation contemplated under Section 73/74 arises, and the refund claim is made after the time prescribed therein, the proper officer would be disentitled from invoking Section 73/74, even though he may be in possession of valid material. Had the refund claim been filed within the prescribed period of two years, the proper officer would undoubtedly have been entitled to rely upon such material against the taxpayer.

11.2 When delay in claiming refund is condoned, the proper officer must also be enabled to exercise or invoke such other provisions as would have been available had the refund claim been filed within time. If such an enabling principle is not

recognised, it may result in entertaining unverifiable refund claims and prevent the proper officer from initiating further action under the Act. In the absence of such enablement in favour of the proper officer, mere condonation of delay in filing a refund claim may encourage belated claims, which may or may not be genuine, while at the same time foreclosing action otherwise permissible under the Act, including under Sections 73 and 74.

11.3 Adopting such an approach would strike a balance between the interests of the taxpayer and the Revenue. It would also ensure that only genuine refund claims invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India. This view is taken having regard to the broad object of the Act, namely, the levy and collection of tax in accordance with law.

11.4 We hold that the taxpayer is entitled to seek condonation of delay in claiming refund by invoking the jurisdiction of this Court under Article 226 of the Constitution of India. The Court may consider such request for condonation of delay on a case-

to-case basis and, if found appropriate, direct the proper officer to consider the refund claim in accordance with law.

11.5 While condoning the delay in filing the refund claim, the Court must ensure that if any consequential action under Sections 73 or 74 is required to be invoked and if the limitation prescribed for such action has expired, appropriate extension of time is granted to enable such action.

F. Summary:

12. In the light of the above reasoning and discussion, we conclude as under:

- (a) The period of two years prescribed under Section 54 of the CGST Act, 2017 is mandatory.
- (b) As no remedy is provided under CGST Act to consider a refund claim under Section 54, if filed belatedly, it is open to any person claiming refund to avail remedy under Article 226 of the Constitution of India.
- (c) The condonation of delay ordered by the Court shall be subject to the condition that

corresponding extension of time is granted in favour of the proper officer to invoke other applicable provisions, including Sections 73 and 74 of the Act, as may be necessary.

- (d) If such other remedies were otherwise available had the refund claim been filed within two years under Section 54 of the Act, the same shall continue to remain available.
- (e) Once condonation of delay is granted by the Court in filing the refund claim, the claim shall be treated as having been filed within the prescribed period of two years, thereby enabling all consequential benefits to the claimant as well as the exercise of appropriate powers by the proper officer under the Act.
- (f) The scope of a writ petition under Article 226 would ordinarily be limited to the question of condonation of delay, and would not ordinarily extend to determination of the

refund claim itself, unless the entitlement to the refund is undisputed.

G. Conclusion

13. In the light of the above discussion, if the facts of the present case are examined, it is evident that in the return filed for October 2017, the assessee had paid IGST treating the services as "export of services". Subsequently, the transaction was treated as an intra-State supply, and the assessee paid CGST and SGST. The refund claim was thereafter made in respect of the IGST paid, under Section 54. The said refund claim was rejected on the ground that it was filed beyond the prescribed period of two years.

13.1 As discussed earlier, the refund claim is required to be made in the form and manner prescribed. Such prescription has been made under Rule 89(1A), which came into effect from 24.09.2021. Insofar as refund claims not made within the period prescribed under Section 54, the proviso to sub-rule (1A) of Rule 89 provided a one-time measure enabling such claims to be made within two years from the date on which sub-rule (1A) came into force.

13.2 In the present case, the refund claim was made on 30.03.2024, which is even beyond the period provided in the proviso. The delay is of six months. It is also not in dispute that the entitlement to the refund, but for the technical ground of limitation, is not questioned by the authorities.

13.3 In the light of the reasons assigned hereinabove, we are of the view that the present case is a fit case for condonation of delay. Accordingly, the delay in filing the application under Section 54 of the Act is condoned. Consequently, the application dated 30.03.2024 filed under Section 54 seeking refund is directed to be considered in accordance with law.

14. In the light of the above, we pass the following:

ORDER

- (i) Writ appeals are ***allowed-in-part***.
- (ii) The order of the learned Single Judge dated 07.11.2025 in Writ Petition Nos.27259/2024, 27261/2024, 27552/2024, 27691/2024 and 28151/2024 are set aside to the extent indicated above.

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(iii) In view of the condonation of delay in filing the refund application, the appellant-authorities are directed to consider the same in accordance with law.

(iv) The time for compliance shall be sixty days from the date of receipt of copy of this order.

Pending I.As., if any, stand disposed of.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(K. V. ARAVIND)
JUDGE**