GOODS AND SERVICES TAX APPELLATE TRIBUNAL
THIRUVANANTHAPURAM BENCH
Division Bench :: Court No. I
(hybrid hearing)

APPEAL NOS: APL/6/TVP/2026, APL/8/TVP/2026, APL/9/TVP/2026

M/s. Choice Cashew Industries ....Appellant

Versus

The Commissioner of CGST Thiruvananthapuram ....Respondent

Counsel for Appellant	**Counsel for Respondent**
KR Balachandran, Advocate	Suresh S, AR

CORAM:

Hon'ble Shri Subramanya Rayaprol, Vice-President
Hon'ble Shri Ramamoorthi Sriram, Member (Technical)

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FINAL ORDER NO: 05/TVP/KERALA/2026

Date of Hearing: 14-8-2026
Date of Order: 17-9-2026

Per: Subramanya Rayaprol, Vice-President

1.0 Mr KR Balachandran, Ld Advocate appeared for the appellant tax payer and Mr Suresh S, Ld AR for the Revenue (Centre) appeared for the respondent CGST Department.

2.0 The brief facts of the case is that the appellant is an exporter of cashew kernels. During the months of November-2018, December-2018 and February-2019, the appellant had exported cashew kernels on payment of IGST @ 5% and had filed

the GST Returns. It is the contention of the appellant that they had paid the IGST, on the export invoices but due to error in making entry of such export figures in the GSTR-3B returns, the refund of IGST paid was not processed through the Customs EDI system. Further, the appellant paid the entire amount of IGST was once again paid and shown in the correct column of the GSTR-3B return for the period August-2019, and the refund of IGST paid was processed through the Customs EDI system. Since the appellant had already paid the IGST on such exports in the months of November-2018, December-2018 and February-2019, and wrongly reported in a different column pertaining to the domestic clearances, instead of exports on payment of IGST, in the respective GSTR3B returns, such amount was excess payment of IGST on export of goods and hence, they had filed a refund claim of excess paid IGST during the months of November-2018, December-2018 and February-2019. The refund claims were rejected vide OIO Nos. 306/2019-20 dated 18-12-2020 (November-2018 for Rs. 941390/-), 307/2019-20 dated 18-12-2020 (December-2018 for Rs. 455293/-), 308/2019-20 dated 18-12-2020 (February-2019 for Rs. 430587/-). Aggrieved by the rejection of the refund claims of excess paid IGST, the appellant filed appeals before the Joint Commissioner (Appeals), CGST. The first appellate authority i.e. the Joint Commissioner (Appeals), CGST rejected the appeals on the grounds that the appellant had already received the refund. The Joint Commissioner (Appeals) has passed the following order.

> *9. From the above, I find that in case of refund claim arising on account of tax (IGST) paid on export of goods, the shipping bill/bill of export will be considered as application for refund and no separate application form is prescribed for claiming refund of tax on export of goods. I also observe that the registered persons who have exported goods out of India on payment of IGST are eligible to get the refund so paid*

subject to certain conditions related to filing of correct and sufficient information in both GSTIN and Customs System.

10. Respondent was asked to ascertain/ confirm the nature of the refund involved in the instant appeals filed by the Appellant. The Respondent has clarified vide written reply that the Appellant has already received refund under Rule 96 of the CGST Rules, 2017 and subsequently Show Cause Notice (SCN) was issued to the Appellant by the competent authority under Rule 74 of the CGST Act, 2017 for recovering the ineligible refund of IGST received on export of goods in terms of Section 16(3)(b) of the CGST Act 2017 read with Rule 96(10) of the CGST Rules, 2017. I realize that the Appellant has already claimed and availed refund of IGST on export of goods involved in the appeals and the competent authority has also issued Show Cause Notice to the Appellant for recovering the erroneous refund sanctioned.

11. In view of the above, I dismiss the appeals filed by the Appellant for the refund of IGST paid on export of goods amounting to Rs.18,27,270/- during the months of November 2018, December 2018 and February 2019."

3.0 The Ld Advocate appearing for the appellant submits that they had exported cashew kernels during the month of Nov-2018, December-2018, and Feb-2019, and had filed shipping bills and export invoices to the Customs, on payment of IGST @ 5%. They had also correctly filed the GSTR1 Returns and had shown the said shipping bills and export invoices in the GSTR1 Returns for each respective month. However, while filing GSTR-3B for the said months, the export turnover and corresponding IGST were inadvertently reported in Table 3.1(a) which is for other than zero rated instead of Table 3.1(b) which is for showing zero rated turnover. Due to this reporting error, the IGST paid at the time of export did not result in the corresponding automatic refund from Customs EDI system. Further, In an attempt to rectify the position, the same export turnover was subsequently reported correctly and the same IGST of a total of Rs. 1827272/- (Nov-2018 – Rs. 941390/-, Dec-2018 – Rs. 455293/-, and Feb-2019 – Rs. 430587/-) was paid again, and shown in the

GSTR3B of August-2019. On such payment the refund of Rs. 1827272/- was received by automatic mode from Customs EDI system for the three months on account of exports made on payment of IGST. However, the refund of the original initial payment of IGST made in respective months remains unrefunded. He therefore, has filed the present refund claim for the original IGST payment, and not for the amount paid in August-2019 and refunded through Customs automatic mode. He prays to allow the appeals.

4.0 The Ld AR appearing for the Revenue (Centre) submits that the appellant has filed these refund applications stating that at the time of filing of monthly return for the month of November 2018, December 2018 and February 2019, the details of export supplies made on payment of IGST were entered in Column 3(1)(a) of GSTR 3B which was intended for entry of value and tax paid in respect of outward taxable supplies (other than zero-rated, Nil rated and exempted); instead of the correct Column 3(1)(b) for entry of "Outward taxable supply (zero rated)"; and payment of IGST. The IGST involved and paid for the export supplies made during November 2018, December 2018 and February 2019 was Rs.9,41,390/-; Rs.4,55,293/- and Rs.4,30,587/- respectively. Since the payment of IGST on the export supplies as detailed above was reported in Column 3 (1) (a) of GSTR-3B instead of Column 3 (1) (b) the customs system did not process the shipping bills for automatic refund due to mismatch of data reported in the Shipping Bill, GSTR-1 and GSTR-3B. Therefore, they paid the IGST of Rs.9,41,390/-; Rs.4,55,293/- and Rs.4,30,587/- pertaining to the periods November 2018, December 2018 and February 2019 again through the GSTR-3B returns of August 2019 and the same was correctly reported in Column 3 (1) (b) of the return as IGST paid on export supplies. Consequently, they received

refund of IGST paid by them for the second time from Customs. Therefore, the refund of the IGST paid in November 2018, December 2018 and February 2019 and wrongly reported in Column 3 (1) (a) of GSTR-3B was claimed. Since the refund applications were rejected by the sanctioning authority the appellant filed appeal before the Joint Commissioner (Appeals), Cochin against the said refund rejection orders and the appeals were dismissed by the first appellate authority by Order – in- Appeal Nos. TVM-GST-000-APP- 154-156 – 2022 JC dated 09.11.2022 on the basis of the submission by the respondents that the appellant had already received the refund whereas the refund already received was that of the second payment made in August 2019. Therefore, the appellants have preferred these appeals praying for refund of the IGST paid on export supplies and wrongly reported by them in the column for reporting payment of tax on domestic supplies in their GSTR-3B returns for the month of November 2018, December 2018 and February 2019. On perusal of the original orders rejecting the refund application of the appellant it is seen that the refund applications were rejected primarily on the ground that there were discrepancies in the returns; GSTR-1 and GSTR-3B filed for the relevant months and the documents submitted by the appellant do not establish payment of excess tax during the period. It is submitted that in order to be eligible for refund the appellant has to demonstrate by producing sufficient evidence including reconciliation / computation statement to establish that the amount of tax declared and paid and reported in Column 3 (1) (a) of the GSTR-3B returns for the months of November 2018, December 2018 and February 2019 included the IGST paid on the export supplies in addition to the tax payable on the domestic supplies made during the period and the same amount of IGST paid on export supplies as reported in Column 3 (1) (a) of the respective GSTR-

3B returns were again reported in the Column 3 (1) (b) of the GSTR-3B returns for the month of August 2019 and the IGST was paid through the said return.

5.0 Heard both sides. We have also seen the case records, annexures, reconciliation statements and the written submissions made by both sides.

6.0 We find that the both the Assistant Commissioner, as well as the Ld Joint Commissioner (Appeals) did not make any efforts to understand which amount is claimed as refund and which amount was refunded through automated system of Customs. We find that the refund claimed by the appellant is for the amount paid by them towards export of goods on payment of IGST but due to clerical error in the filing of GSTR3B return, the said amount was not considered by the automated customs system of refund while crosschecking form the GST portal. Since there is no manual intervention in the Customs Refund systems for exports, the appellant had to pay the same amount of IGST once again, in August-2019 and then it was processed by the Automated Customs Refund System. We find on perusal of the GSTR1 and GSTR3B Returns filed by the appellant, that the export figures and the amount of IGST payable is correctly shown in the GSTR1 returns. However, on perusal of the GSTR3B returns we find that the IGST paid is shown as NIL in Table 3.1(a) and in column 3.1 (b) the amount of IGST is shown. To understand and make it simple, description of the details to be filled in GSTR3B at Table 3.1 is as below;

3.1 (a) - Outward Taxable supplies as per Column 4A, 4B, 6B,6C of GSTR 1 (Other than Zero rated Nil rated and Exempted)

3.1 (b) - Outward Taxable supplies as per Column 6A of GSTR 1 (Zero rated)

3.1 (c) - Nil rated and Exempted (as per Column 4A, 4B, 6B,6C of GSTR 1 (Other than Zero rated Nil rated and Exempted)

7.0 On perusal of the GSTR3B Returns for the months of Nov-2018, Dec-2018, Feb-2018 and Aug-2019, we find that the appellant had wrongly shown the figures of the export turnover of zero rated exports in the place of other than zero rated turnover. However, the IGST is also shown to be paid, which is shown in the Table 3.1 (a), whereas, it should have been correctly shown in 3.1 (b). We find that the appellant followed up the refund on IGST paid exports with the concerned Customs authorities as there was a mismatch in the shipping bill and the GSTR1 and GSTR3B returns. This mistake on being pointed out, the appellant had voluntarily paid the entire amount of IGST of Rs. 1827272/- in the GSTR3B filed for the month of August-2019, and got the refund processed in compliance with the refund on IGST paid exports. The amounts of IGST of a total of Rs. 1827272/- (Nov-2018 – Rs. 941390/-, Dec-2018 – Rs. 455293/-, and Feb-2019 – Rs. 430587/-) paid during the respective months remained as an excess paid IGST. The Revenue also has not brought on record any evidence to show as to how the amount of IGST paid as per GSTR1 Return, was not paid erroneous, and could not be treated as excess paid amount, especially when the same amount was once again paid in August-2019.

8.0 We find that the Joint Commissioner (Appeals) has mechanically rejected the appeals and has not gone into the details of the GST Returns submitted by the appellant. It is clearly visible on record, that the appellant has paid IGST once in the respective months of November-2018, December-2018,and February-2019, and once again in the month of August-2019. The amount paid in August-2019, has been

refunded as IGST paid exports through the Customs automated process, and the amount paid during the respective months of November-2018, December-2018,and February-2019 totally amounting to Rs. 1827272/- stands as excess paid amount. It is settled law that tax cannot be collected without the authority of law. Therefore, the excess paid amount cannot be held back and is liable to be returned / refunded to the appellant.

9.0 We find that the mistake committed by the appellant while filing the GSTR3B returns, is a clerical mistake of making correct entries at wrong places, which is subsequently explained in the reconciliation statement submitted by the appellant. The clerical mistake which is on the face of record is a minor one and properly explained for which the appellant cannot be penalised by not refunding the amount paid in excess of what was due to be paid. There is no warrant for the Revenue authority concerned to retain the amounts found to have been deposited twice and reject the application for refund claimed by the appellant.

10.0 We find that our view is also supported by the Hon'ble Orissa High Court in the judgement of Rajendra Narayan Mohanty Versus Joint Commissioner of State Tax, Cuttack cited in 2026 (2) TMI 1101 - ORISSA HIGH COURT, wherein the Hon'ble High Court has held that,

> *7. It is demonstrably manifest from aforesaid discussions that retaining the amount paid in excess of tax liability by the State is hit by inhibition enshrined in Article 265 of the Constitution of India. The finding of Joint Commissioner of State Tax, CT&GST Circle, Cuttack-I East, Cuttack in his Order dated 22nd October, 2025 unequivocally accepted that the petitioner has made an excess payment of tax to the tune of Rs. 12,03,290/- (CGST of Rs. 6,01,645/- + OGST of Rs. 6,01,645/-) as the deposits were*

made once by way of utilising Credit Ledger and thereafter under mistaken notion by using Cash Ledger. However, discharge of tax liability having been accepted in the proceeding under Section 74 of the GST Act vide Order dated 08.11.2024, there is no warrant for the authority concerned to retain the amounts found to have been deposited twice and reject the application for refund claimed by the petitioner.

7.1. The reason ascribed to by the Proper Officer in rejecting the application taking into account Clause (d) of Paragraph (2) of Explanation to Section 54 is apparently flimsy and inapplicable to the fact-situation of present case. The specious plea of the authority to reject the application for refund that it was filed beyond period stipulated under Section 54 of the GST Act pales into insignificance on the anvil of Article 265 of the Constitution of India.

7.2. Under the above premise, refund claimed in respect of tax paid erroneously or under mistaken notion cannot be denied solely on the ground of limitation stipulated in Section 54 of the GST Act.

8. In the result, the writ petition is allowed. As a consequence of above discussion, Order dated 22nd October, 2025 passed by the Joint Commissioner of State Tax, CT & GST Circle, Cuttack-I East, Cuttack rejecting the application for refund cannot be sustained and the same is hereby quashed and set aside.

11.0 We also would refer to the judgement of Hon'ble Karnataka High Court, in the case of Merck Life Science Private Limited Versus The Union of India cited in 2025 (11) TMI 1419 - KARNATAKA HIGH COURT, wherein Hon'ble High Court has held that,

14. A plain reading of Section 77(1) of the CGST Act will clearly indicate that the taxpayer who pays tax to the Central Authority by oversight, inadvertence and erroneously, would be entitled to refund of the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.

15. A similar provision exists in the IGST Act which relates to Inter-State supply and Section 19(1) of the IGST Act also contemplates that, if an Integrated Tax on a supply considered by the taxpayer to be an Inter-State supply is subsequently held to be an

Inter-State supply, such taxpayer shall be granted refund of the amount of integrated tax so paid in such manner and subject to such conditions as may be prescribed.

16. Rule 89(1A) of the CGST Rules, 2017 stipulate that the refund claim under Section 77 of the CGST Act and Section 19 of the IGST Act would have to be made within a period of 2 years from the date of payment by filing an application in the prescribed format.

17. In this context, it is the specific contention of the petitioner that Rule 89(1A) of the CGST Rules, 2017 and Section 54 of the CGST Act, which provide a period of 2 years is directory and not mandatory.

18. It is also pertinent to note that in the Statement of Objections filed by the respondents in all these petitions, the payment in excess made by the petitioner to the Central Authorities, though not contested, have not been disputed by the Central Authorities as can be seen from paragraph No. 11 of all respective petitions, one of which (W.P. No. 27259/2024) reads as under:

11. It is further submitted that the respondent has not contested that the petitioner has paid Rs. 52,63,596/- under IGST Head in excess whereas the same was later discharged under the correct head of CGST and SGST during March 2018. Respondent agrees that the tax was discharged in excess by the petitioner. However, the refund for the said excess payment should have been filed on the portal within due date as applicable as per the CGST Act,2017. Rule 89 of CGST Rules 2017 read with Notification No. 13/2022-Central Tax dated 05.07.2022 i.e., within February 2024. The petitioner has failed to ascertain that the excess payment of Rs. 69,88,339/- has been made by them towards IGST in time and therefore, they have failed to file the refund application in time. On the other hand, the Department has done the verification as per law, issued a show cause notice to the petitioner, granted a personal hearing, vetted the reply submitted by the noticee in light of the provisions applicable and have reached to a conclusion that the refund claim has been hit by the limitation of time. Accordingly, a speaking order was passed for rejection of the refund of Rs. 69,88,339/-.

19. As can be seen from the aforesaid Statement of Objections, payment made by the petitioner towards IGST to the Central Authorities have not been disputed by the respondents, who on the other hand only merely contend that the refund claim of the petitioner is barred by limitation. In fact, respondent Nos. 2 and 3 also admit that the

petitioner had made payment to the State GST Authorities subsequent to the payment made to the Central GST Authorities. It is therefore clear that respondent Nos. 2 and 3 have admitted that the petitioner had made such payment in favour of the Central GST Authorities towards IGST prior to making similar payment to the State GST Authorities.

20. As held by the High Court of Madras and the High Court of Andhra Pradesh in the aforesaid judgments, Section 54 of the CGST Act and Rule 89(1A) of the CGST Rules, 2017 have been held to be directory and not mandatory. It is also significant to note that having regard to Article 265 of the Constitution of India, the respondent – Central GST authorities were not entitled to collect IGST form the petitioner, who was not liable to pay the same and consequently, upon the petitioner paying the same amount to the State GST authorities subsequently, the respondent–Centre was not entitled to retain the IGST and consequently, by applying the principles of restitution and unjust enrichment, the respondent – Centre was obligated to refund IGST back to the petitioner.

21. Under these circumstances, I am of the considered opinion that the impugned orders passed by respondent No. 3 holding that the refund claim is barred by limitation is contrary to facts and law and the same deserves to be set aside by holding that the refund application/claim of the petitioner is within time and is not barred by limitation.

12.0 In view of the above discussion, we find that the appellant are eligible for refund of the excess paid IGST, and cannot be denied on the grounds of clerical mistakes or procedural infractions. The wrong entries made in the GST Returns and corrected later resulting in excess payment of IGST otherwise not due, is not a substantive infraction so as to deny the refund claim of excess payment of IGST. We find that the impugned orders in appeal passed by the Joint Commissioner (Appeals), is not at all sustainable and is liable to be set aside, and hence we pass the order as below:

ORDER

The Order-in-Appeal No. TVM-GST-000-APP-154-156-2022-JC dated 31.10.2022 is hereby quashed and set aside. The appeals filed by the appellant viz APL/6/TVP/2026, APL/8/TVP/2026, APL/9/TVP/2026, are allowed with consequential relief.

(Order pronounced in open court)

Subramanya V Rayaprol
Vice-President

Ramamoorthi Sriram
Member (Technical)

Dated: 17.09.2026

GOODS AND SERVICES TAX APPELLATE TRIBUNAL
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M/s. Choice Cashew Industries ....Appellant

Versus

The Commissioner of CGST Thiruvananthapuram ....Respondent

Counsel for Appellant
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Suresh S, AR

CORAM:

Hon'ble Shri Subramanya Rayaprol, Vice-President
Hon'ble Shri Ramamoorthi Sriram, Member (Technical)

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FINAL ORDER NO: 05/TVP/KERALA/2026

Date of Hearing: 14-8-2026
Date of Order: 17-9-2026

Per: Subramanya Rayaprol, Vice-President

1.0 Mr KR Balachandran, Ld Advocate appeared for the appellant tax payer and Mr Suresh S, Ld AR for the Revenue (Centre) appeared for the respondent CGST Department.

2.0 The brief facts of the case is that the appellant is an exporter of cashew kernels. During the months of November-2018, December-2018 and February-2019, the appellant had exported cashew kernels on payment of IGST @ 5% and had filed

the GST Returns. It is the contention of the appellant that they had paid the IGST, on the export invoices but due to error in making entry of such export figures in the GSTR-3B returns, the refund of IGST paid was not processed through the Customs EDI system. Further, the appellant paid the entire amount of IGST was once again paid and shown in the correct column of the GSTR-3B return for the period August-2019, and the refund of IGST paid was processed through the Customs EDI system. Since the appellant had already paid the IGST on such exports in the months of November-2018, December-2018 and February-2019, and wrongly reported in a different column pertaining to the domestic clearances, instead of exports on payment of IGST, in the respective GSTR3B returns, such amount was excess payment of IGST on export of goods and hence, they had filed a refund claim of excess paid IGST during the months of November-2018, December-2018 and February-2019. The refund claims were rejected vide OIO Nos. 306/2019-20 dated 18-12-2020 (November-2018 for Rs. 941390/-), 307/2019-20 dated 18-12-2020 (December-2018 for Rs. 455293/-), 308/2019-20 dated 18-12-2020 (February-2019 for Rs. 430587/-). Aggrieved by the rejection of the refund claims of excess paid IGST, the appellant filed appeals before the Joint Commissioner (Appeals), CGST. The first appellate authority i.e. the Joint Commissioner (Appeals), CGST rejected the appeals on the grounds that the appellant had already received the refund. The Joint Commissioner (Appeals) has passed the following order.

> *9. From the above, I find that in case of refund claim arising on account of tax (IGST) paid on export of goods, the shipping bill/bill of export will be considered as application for refund and no separate application form is prescribed for claiming refund of tax on export of goods. I also observe that the registered persons who have exported goods out of India on payment of IGST are eligible to get the refund so paid*

subject to certain conditions related to filing of correct and sufficient information in both GSTIN and Customs System.

10. Respondent was asked to ascertain/ confirm the nature of the refund involved in the instant appeals filed by the Appellant. The Respondent has clarified vide written reply that the Appellant has already received refund under Rule 96 of the CGST Rules, 2017 and subsequently Show Cause Notice (SCN) was issued to the Appellant by the competent authority under Rule 74 of the CGST Act, 2017 for recovering the ineligible refund of IGST received on export of goods in terms of Section 16(3)(b) of the CGST Act 2017 read with Rule 96(10) of the CGST Rules, 2017. I realize that the Appellant has already claimed and availed refund of IGST on export of goods involved in the appeals and the competent authority has also issued Show Cause Notice to the Appellant for recovering the erroneous refund sanctioned.

11. In view of the above, I dismiss the appeals filed by the Appellant for the refund of IGST paid on export of goods amounting to Rs.18,27,270/- during the months of November 2018, December 2018 and February 2019."

3.0 The Ld Advocate appearing for the appellant submits that they had exported cashew kernels during the month of Nov-2018, December-2018, and Feb-2019, and had filed shipping bills and export invoices to the Customs, on payment of IGST @ 5%. They had also correctly filed the GSTR1 Returns and had shown the said shipping bills and export invoices in the GSTR1 Returns for each respective month. However, while filing GSTR-3B for the said months, the export turnover and corresponding IGST were inadvertently reported in Table 3.1(a) which is for other than zero rated instead of Table 3.1(b) which is for showing zero rated turnover. Due to this reporting error, the IGST paid at the time of export did not result in the corresponding automatic refund from Customs EDI system. Further, In an attempt to rectify the position, the same export turnover was subsequently reported correctly and the same IGST of a total of Rs. 1827272/- (Nov-2018 – Rs. 941390/-, Dec-2018 – Rs. 455293/-, and Feb-2019 – Rs. 430587/-) was paid again, and shown in the

GSTR3B of August-2019. On such payment the refund of Rs. 1827272/- was received by automatic mode from Customs EDI system for the three months on account of exports made on payment of IGST. However, the refund of the original initial payment of IGST made in respective months remains unrefunded. He therefore, has filed the present refund claim for the original IGST payment, and not for the amount paid in August-2019 and refunded through Customs automatic mode. He prays to allow the appeals.

4.0 The Ld AR appearing for the Revenue (Centre) submits that the appellant has filed these refund applications stating that at the time of filing of monthly return for the month of November 2018, December 2018 and February 2019, the details of export supplies made on payment of IGST were entered in Column 3(1)(a) of GSTR 3B which was intended for entry of value and tax paid in respect of outward taxable supplies (other than zero-rated, Nil rated and exempted); instead of the correct Column 3(1)(b) for entry of “Outward taxable supply (zero rated)”; and payment of IGST. The IGST involved and paid for the export supplies made during November 2018, December 2018 and February 2019 was Rs.9,41,390/-; Rs.4,55,293/- and Rs.4,30,587/- respectively. Since the payment of IGST on the export supplies as detailed above was reported in Column 3 (1) (a) of GSTR-3B instead of Column 3 (1) (b) the customs system did not process the shipping bills for automatic refund due to mismatch of data reported in the Shipping Bill, GSTR-1 and GSTR-3B. Therefore, they paid the IGST of Rs.9,41,390/-; Rs.4,55,293/- and Rs.4,30,587/- pertaining to the periods November 2018, December 2018 and February 2019 again through the GSTR-3B returns of August 2019 and the same was correctly reported in Column 3 (1) (b) of the return as IGST paid on export supplies. Consequently, they received

refund of IGST paid by them for the second time from Customs. Therefore, the refund of the IGST paid in November 2018, December 2018 and February 2019 and wrongly reported in Column 3 (1) (a) of GSTR-3B was claimed. Since the refund applications were rejected by the sanctioning authority the appellant filed appeal before the Joint Commissioner (Appeals), Cochin against the said refund rejection orders and the appeals were dismissed by the first appellate authority by Order – in- Appeal Nos. TVM-GST-000-APP- 154-156 – 2022 JC dated 09.11.2022 on the basis of the submission by the respondents that the appellant had already received the refund whereas the refund already received was that of the second payment made in August 2019. Therefore, the appellants have preferred these appeals praying for refund of the IGST paid on export supplies and wrongly reported by them in the column for reporting payment of tax on domestic supplies in their GSTR-3B returns for the month of November 2018, December 2018 and February 2019. On perusal of the original orders rejecting the refund application of the appellant it is seen that the refund applications were rejected primarily on the ground that there were discrepancies in the returns; GSTR-1 and GSTR-3B filed for the relevant months and the documents submitted by the appellant do not establish payment of excess tax during the period. It is submitted that in order to be eligible for refund the appellant has to demonstrate by producing sufficient evidence including reconciliation / computation statement to establish that the amount of tax declared and paid and reported in Column 3 (1) (a) of the GSTR-3B returns for the months of November 2018, December 2018 and February 2019 included the IGST paid on the export supplies in addition to the tax payable on the domestic supplies made during the period and the same amount of IGST paid on export supplies as reported in Column 3 (1) (a) of the respective GSTR-

3B returns were again reported in the Column 3 (1) (b) of the GSTR-3B returns for the month of August 2019 and the IGST was paid through the said return.

5.0 Heard both sides. We have also seen the case records, annexures, reconciliation statements and the written submissions made by both sides.

6.0 We find that the both the Assistant Commissioner, as well as the Ld Joint Commissioner (Appeals) did not make any efforts to understand which amount is claimed as refund and which amount was refunded through automated system of Customs. We find that the refund claimed by the appellant is for the amount paid by them towards export of goods on payment of IGST but due to clerical error in the filing of GSTR3B return, the said amount was not considered by the automated customs system of refund while crosschecking form the GST portal. Since there is no manual intervention in the Customs Refund systems for exports, the appellant had to pay the same amount of IGST once again, in August-2019 and then it was processed by the Automated Customs Refund System. We find on perusal of the GSTR1 and GSTR3B Returns filed by the appellant, that the export figures and the amount of IGST payable is correctly shown in the GSTR1 returns. However, on perusal of the GSTR3B returns we find that the IGST paid is shown as NIL in Table 3.1(a) and in column 3.1 (b) the amount of IGST is shown. To understand and make it simple, description of the details to be filled in GSTR3B at Table 3.1 is as below;

3.1 (a) - Outward Taxable supplies as per Column 4A, 4B, 6B,6C of GSTR 1 (Other than Zero rated Nil rated and Exempted)

3.1 (b) - Outward Taxable supplies as per Column 6A of GSTR 1 (Zero rated)

3.1 (c) - Nil rated and Exempted (as per Column 4A, 4B, 6B,6C of GSTR 1 (Other than Zero rated Nil rated and Exempted)

7.0 On perusal of the GSTR3B Returns for the months of Nov-2018, Dec-2018, Feb-2018 and Aug-2019, we find that the appellant had wrongly shown the figures of the export turnover of zero rated exports in the place of other than zero rated turnover. However, the IGST is also shown to be paid, which is shown in the Table 3.1 (a), whereas, it should have been correctly shown in 3.1 (b). We find that the appellant followed up the refund on IGST paid exports with the concerned Customs authorities as there was a mismatch in the shipping bill and the GSTR1 and GSTR3B returns. This mistake on being pointed out, the appellant had voluntarily paid the entire amount of IGST of Rs. 1827272/- in the GSTR3B filed for the month of August-2019, and got the refund processed in compliance with the refund on IGST paid exports. The amounts of IGST of a total of Rs. 1827272/- (Nov-2018 – Rs. 941390/-, Dec-2018 – Rs. 455293/-, and Feb-2019 – Rs. 430587/-) paid during the respective months remained as an excess paid IGST. The Revenue also has not brought on record any evidence to show as to how the amount of IGST paid as per GSTR1 Return, was not paid erroneous, and could not be treated as excess paid amount, especially when the same amount was once again paid in August-2019.

8.0 We find that the Joint Commissioner (Appeals) has mechanically rejected the appeals and has not gone into the details of the GST Returns submitted by the appellant. It is clearly visible on record, that the appellant has paid IGST once in the respective months of November-2018, December-2018,and February-2019, and once again in the month of August-2019. The amount paid in August-2019, has been

refunded as IGST paid exports through the Customs automated process, and the amount paid during the respective months of November-2018, December-2018,and February-2019 totally amounting to Rs. 1827272/- stands as excess paid amount. It is settled law that tax cannot be collected without the authority of law. Therefore, the excess paid amount cannot be held back and is liable to be returned / refunded to the appellant.

9.0 We find that the mistake committed by the appellant while filing the GSTR3B returns, is a clerical mistake of making correct entries at wrong places, which is subsequently explained in the reconciliation statement submitted by the appellant. The clerical mistake which is on the face of record is a minor one and properly explained for which the appellant cannot be penalised by not refunding the amount paid in excess of what was due to be paid. There is no warrant for the Revenue authority concerned to retain the amounts found to have been deposited twice and reject the application for refund claimed by the appellant.

10.0 We find that our view is also supported by the Hon'ble Orissa High Court in the judgement of Rajendra Narayan Mohanty Versus Joint Commissioner of State Tax, Cuttack cited in 2026 (2) TMI 1101 - ORISSA HIGH COURT, wherein the Hon'ble High Court has held that,

> *7. It is demonstrably manifest from aforesaid discussions that retaining the amount paid in excess of tax liability by the State is hit by inhibition enshrined in Article 265 of the Constitution of India. The finding of Joint Commissioner of State Tax, CT&GST Circle, Cuttack-I East, Cuttack in his Order dated 22nd October, 2025 unequivocally accepted that the petitioner has made an excess payment of tax to the tune of Rs. 12,03,290/- (CGST of Rs. 6,01,645/- + OGST of Rs. 6,01,645/-) as the deposits were*

made once by way of utilising Credit Ledger and thereafter under mistaken notion by using Cash Ledger. However, discharge of tax liability having been accepted in the proceeding under Section 74 of the GST Act vide Order dated 08.11.2024, there is no warrant for the authority concerned to retain the amounts found to have been deposited twice and reject the application for refund claimed by the petitioner.

7.1. The reason ascribed to by the Proper Officer in rejecting the application taking into account Clause (d) of Paragraph (2) of Explanation to Section 54 is apparently flimsy and inapplicable to the fact-situation of present case. The specious plea of the authority to reject the application for refund that it was filed beyond period stipulated under Section 54 of the GST Act pales into insignificance on the anvil of Article 265 of the Constitution of India.

7.2. Under the above premise, refund claimed in respect of tax paid erroneously or under mistaken notion cannot be denied solely on the ground of limitation stipulated in Section 54 of the GST Act.

8. In the result, the writ petition is allowed. As a consequence of above discussion, Order dated 22nd October, 2025 passed by the Joint Commissioner of State Tax, CT & GST Circle, Cuttack-I East, Cuttack rejecting the application for refund cannot be sustained and the same is hereby quashed and set aside.

11.0 We also would refer to the judgement of Hon'ble Karnataka High Court, in the case of Merck Life Science Private Limited Versus The Union of India cited in 2025 (11) TMI 1419 - KARNATAKA HIGH COURT, wherein Hon'ble High Court has held that,

14. A plain reading of Section 77(1) of the CGST Act will clearly indicate that the taxpayer who pays tax to the Central Authority by oversight, inadvertence and erroneously, would be entitled to refund of the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.

15. A similar provision exists in the IGST Act which relates to Inter-State supply and Section 19(1) of the IGST Act also contemplates that, if an Integrated Tax on a supply considered by the taxpayer to be an Inter-State supply is subsequently held to be an

Inter-State supply, such taxpayer shall be granted refund of the amount of integrated tax so paid in such manner and subject to such conditions as may be prescribed.

16. Rule 89(1A) of the CGST Rules, 2017 stipulate that the refund claim under Section 77 of the CGST Act and Section 19 of the IGST Act would have to be made within a period of 2 years from the date of payment by filing an application in the prescribed format.

17. In this context, it is the specific contention of the petitioner that Rule 89(1A) of the CGST Rules, 2017 and Section 54 of the CGST Act, which provide a period of 2 years is directory and not mandatory.

18. It is also pertinent to note that in the Statement of Objections filed by the respondents in all these petitions, the payment in excess made by the petitioner to the Central Authorities, though not contested, have not been disputed by the Central Authorities as can be seen from paragraph No. 11 of all respective petitions, one of which (W.P. No. 27259/2024) reads as under:

11. It is further submitted that the respondent has not contested that the petitioner has paid Rs. 52,63,596/- under IGST Head in excess whereas the same was later discharged under the correct head of CGST and SGST during March 2018. Respondent agrees that the tax was discharged in excess by the petitioner. However, the refund for the said excess payment should have been filed on the portal within due date as applicable as per the CGST Act,2017. Rule 89 of CGST Rules 2017 read with Notification No. 13/2022-Central Tax dated 05.07.2022 i.e., within February 2024. The petitioner has failed to ascertain that the excess payment of Rs. 69,88,339/- has been made by them towards IGST in time and therefore, they have failed to file the refund application in time. On the other hand, the Department has done the verification as per law, issued a show cause notice to the petitioner, granted a personal hearing, vetted the reply submitted by the noticee in light of the provisions applicable and have reached to a conclusion that the refund claim has been hit by the limitation of time. Accordingly, a speaking order was passed for rejection of the refund of Rs. 69,88,339/-.

19. As can be seen from the aforesaid Statement of Objections, payment made by the petitioner towards IGST to the Central Authorities have not been disputed by the respondents, who on the other hand only merely contend that the refund claim of the petitioner is barred by limitation. In fact, respondent Nos. 2 and 3 also admit that the

petitioner had made payment to the State GST Authorities subsequent to the payment made to the Central GST Authorities. It is therefore clear that respondent Nos. 2 and 3 have admitted that the petitioner had made such payment in favour of the Central GST Authorities towards IGST prior to making similar payment to the State GST Authorities.

20. As held by the High Court of Madras and the High Court of Andhra Pradesh in the aforesaid judgments, Section 54 of the CGST Act and Rule 89(1A) of the CGST Rules, 2017 have been held to be directory and not mandatory. It is also significant to note that having regard to Article 265 of the Constitution of India, the respondent – Central GST authorities were not entitled to collect IGST form the petitioner, who was not liable to pay the same and consequently, upon the petitioner paying the same amount to the State GST authorities subsequently, the respondent–Centre was not entitled to retain the IGST and consequently, by applying the principles of restitution and unjust enrichment, the respondent – Centre was obligated to refund IGST back to the petitioner.

21. Under these circumstances, I am of the considered opinion that the impugned orders passed by respondent No. 3 holding that the refund claim is barred by limitation is contrary to facts and law and the same deserves to be set aside by holding that the refund application/claim of the petitioner is within time and is not barred by limitation.

12.0 In view of the above discussion, we find that the appellant are eligible for refund of the excess paid IGST, and cannot be denied on the grounds of clerical mistakes or procedural infractions. The wrong entries made in the GST Returns and corrected later resulting in excess payment of IGST otherwise not due, is not a substantive infraction so as to deny the refund claim of excess payment of IGST. We find that the impugned orders in appeal passed by the Joint Commissioner (Appeals), is not at all sustainable and is liable to be set aside, and hence we pass the order as below:

ORDER

The Order-in-Appeal No. TVM-GST-000-APP-154-156-2022-JC dated 31.10.2022 is hereby quashed and set aside. The appeals filed by the appellant viz APL/6/TVP/2026, APL/8/TVP/2026, APL/9/TVP/2026, are allowed with consequential relief.

(Order pronounced in open court)

Subramanya V Rayaprol
Vice-President

Ramamoorthi Sriram
Member (Technical)

Dated: 17.09.2026

GOODS AND SERVICES TAX APPELLATE TRIBUNAL
THIRUVANANTHAPURAM BENCH
<u>Division Bench :: Court No. I</u>
<u>(hybrid hearing)</u>

APPEAL NOS: APL/6/TVP/2026, APL/8/TVP/2026, APL/9/TVP/2026

M/s. Choice Cashew Industries ....Appellant

Versus

The Commissioner of CGST Thiruvananthapuram ....Respondent

Counsel for Appellant	Counsel for Respondent
KR Balachandran, Advocate	Suresh S, AR

CORAM:

Hon'ble Shri Subramanya Rayaprol, Vice-President
Hon'ble Shri Ramamoorthi Sriram, Member (Technical)

……………………………………………………………..……………………………

FINAL ORDER NO: 05/TVP/KERALA/2026

Date of Hearing: 14-8-2026
Date of Order: 17-9-2026

Per: Subramanya Rayaprol, Vice-President

1.0 Mr KR Balachandran, Ld Advocate appeared for the appellant tax payer and Mr Suresh S, Ld AR for the Revenue (Centre) appeared for the respondent CGST Department.

2.0 The brief facts of the case is that the appellant is an exporter of cashew kernels. During the months of November-2018, December-2018 and February-2019, the appellant had exported cashew kernels on payment of IGST @ 5% and had filed

the GST Returns. It is the contention of the appellant that they had paid the IGST, on the export invoices but due to error in making entry of such export figures in the GSTR-3B returns, the refund of IGST paid was not processed through the Customs EDI system. Further, the appellant paid the entire amount of IGST was once again paid and shown in the correct column of the GSTR-3B return for the period August-2019, and the refund of IGST paid was processed through the Customs EDI system. Since the appellant had already paid the IGST on such exports in the months of November-2018, December-2018 and February-2019, and wrongly reported in a different column pertaining to the domestic clearances, instead of exports on payment of IGST, in the respective GSTR3B returns, such amount was excess payment of IGST on export of goods and hence, they had filed a refund claim of excess paid IGST during the months of November-2018, December-2018 and February-2019. The refund claims were rejected vide OIO Nos. 306/2019-20 dated 18-12-2020 (November-2018 for Rs. 941390/-), 307/2019-20 dated 18-12-2020 (December-2018 for Rs. 455293/-), 308/2019-20 dated 18-12-2020 (February-2019 for Rs. 430587/-). Aggrieved by the rejection of the refund claims of excess paid IGST, the appellant filed appeals before the Joint Commissioner (Appeals), CGST. The first appellate authority i.e. the Joint Commissioner (Appeals), CGST rejected the appeals on the grounds that the appellant had already received the refund. The Joint Commissioner (Appeals) has passed the following order.

> *9. From the above, I find that in case of refund claim arising on account of tax (IGST) paid on export of goods, the shipping bill/bill of export will be considered as application for refund and no separate application form is prescribed for claiming refund of tax on export of goods. I also observe that the registered persons who have exported goods out of India on payment of IGST are eligible to get the refund so paid*

subject to certain conditions related to filing of correct and sufficient information in both GSTIN and Customs System.

10. Respondent was asked to ascertain/ confirm the nature of the refund involved in the instant appeals filed by the Appellant. The Respondent has clarified vide written reply that the Appellant has already received refund under Rule 96 of the CGST Rules, 2017 and subsequently Show Cause Notice (SCN) was issued to the Appellant by the competent authority under Rule 74 of the CGST Act, 2017 for recovering the ineligible refund of IGST received on export of goods in terms of Section 16(3)(b) of the CGST Act 2017 read with Rule 96(10) of the CGST Rules, 2017. I realize that the Appellant has already claimed and availed refund of IGST on export of goods involved in the appeals and the competent authority has also issued Show Cause Notice to the Appellant for recovering the erroneous refund sanctioned.

11. In view of the above, I dismiss the appeals filed by the Appellant for the refund of IGST paid on export of goods amounting to Rs.18,27,270/- during the months of November 2018, December 2018 and February 2019."

3.0 The Ld Advocate appearing for the appellant submits that they had exported cashew kernels during the month of Nov-2018, December-2018, and Feb-2019, and had filed shipping bills and export invoices to the Customs, on payment of IGST @ 5%. They had also correctly filed the GSTR1 Returns and had shown the said shipping bills and export invoices in the GSTR1 Returns for each respective month. However, while filing GSTR-3B for the said months, the export turnover and corresponding IGST were inadvertently reported in Table 3.1(a) which is for other than zero rated instead of Table 3.1(b) which is for showing zero rated turnover. Due to this reporting error, the IGST paid at the time of export did not result in the corresponding automatic refund from Customs EDI system. Further, In an attempt to rectify the position, the same export turnover was subsequently reported correctly and the same IGST of a total of Rs. 1827272/- (Nov-2018 – Rs. 941390/-, Dec-2018 – Rs. 455293/-, and Feb-2019 – Rs. 430587/-) was paid again, and shown in the

GSTR3B of August-2019. On such payment the refund of Rs. 1827272/- was received by automatic mode from Customs EDI system for the three months on account of exports made on payment of IGST. However, the refund of the original initial payment of IGST made in respective months remains unrefunded. He therefore, has filed the present refund claim for the original IGST payment, and not for the amount paid in August-2019 and refunded through Customs automatic mode. He prays to allow the appeals.

4.0 The Ld AR appearing for the Revenue (Centre) submits that the appellant has filed these refund applications stating that at the time of filing of monthly return for the month of November 2018, December 2018 and February 2019, the details of export supplies made on payment of IGST were entered in Column 3(1)(a) of GSTR 3B which was intended for entry of value and tax paid in respect of outward taxable supplies (other than zero-rated, Nil rated and exempted); instead of the correct Column 3(1)(b) for entry of “Outward taxable supply (zero rated)”; and payment of IGST. The IGST involved and paid for the export supplies made during November 2018, December 2018 and February 2019 was Rs.9,41,390/-; Rs.4,55,293/- and Rs.4,30,587/- respectively. Since the payment of IGST on the export supplies as detailed above was reported in Column 3 (1) (a) of GSTR-3B instead of Column 3 (1) (b) the customs system did not process the shipping bills for automatic refund due to mismatch of data reported in the Shipping Bill, GSTR-1 and GSTR-3B. Therefore, they paid the IGST of Rs.9,41,390/-; Rs.4,55,293/- and Rs.4,30,587/- pertaining to the periods November 2018, December 2018 and February 2019 again through the GSTR-3B returns of August 2019 and the same was correctly reported in Column 3 (1) (b) of the return as IGST paid on export supplies. Consequently, they received

refund of IGST paid by them for the second time from Customs. Therefore, the refund of the IGST paid in November 2018, December 2018 and February 2019 and wrongly reported in Column 3 (1) (a) of GSTR-3B was claimed. Since the refund applications were rejected by the sanctioning authority the appellant filed appeal before the Joint Commissioner (Appeals), Cochin against the said refund rejection orders and the appeals were dismissed by the first appellate authority by Order – in- Appeal Nos. TVM-GST-000-APP- 154-156 – 2022 JC dated 09.11.2022 on the basis of the submission by the respondents that the appellant had already received the refund whereas the refund already received was that of the second payment made in August 2019. Therefore, the appellants have preferred these appeals praying for refund of the IGST paid on export supplies and wrongly reported by them in the column for reporting payment of tax on domestic supplies in their GSTR-3B returns for the month of November 2018, December 2018 and February 2019. On perusal of the original orders rejecting the refund application of the appellant it is seen that the refund applications were rejected primarily on the ground that there were discrepancies in the returns; GSTR-1 and GSTR-3B filed for the relevant months and the documents submitted by the appellant do not establish payment of excess tax during the period. It is submitted that in order to be eligible for refund the appellant has to demonstrate by producing sufficient evidence including reconciliation / computation statement to establish that the amount of tax declared and paid and reported in Column 3 (1) (a) of the GSTR-3B returns for the months of November 2018, December 2018 and February 2019 included the IGST paid on the export supplies in addition to the tax payable on the domestic supplies made during the period and the same amount of IGST paid on export supplies as reported in Column 3 (1) (a) of the respective GSTR-

3B returns were again reported in the Column 3 (1) (b) of the GSTR-3B returns for the month of August 2019 and the IGST was paid through the said return.

5.0 Heard both sides. We have also seen the case records, annexures, reconciliation statements and the written submissions made by both sides.

6.0 We find that the both the Assistant Commissioner, as well as the Ld Joint Commissioner (Appeals) did not make any efforts to understand which amount is claimed as refund and which amount was refunded through automated system of Customs. We find that the refund claimed by the appellant is for the amount paid by them towards export of goods on payment of IGST but due to clerical error in the filing of GSTR3B return, the said amount was not considered by the automated customs system of refund while crosschecking form the GST portal. Since there is no manual intervention in the Customs Refund systems for exports, the appellant had to pay the same amount of IGST once again, in August-2019 and then it was processed by the Automated Customs Refund System. We find on perusal of the GSTR1 and GSTR3B Returns filed by the appellant, that the export figures and the amount of IGST payable is correctly shown in the GSTR1 returns. However, on perusal of the GSTR3B returns we find that the IGST paid is shown as NIL in Table 3.1(a) and in column 3.1 (b) the amount of IGST is shown. To understand and make it simple, description of the details to be filled in GSTR3B at Table 3.1 is as below;

3.1 (a) - Outward Taxable supplies as per Column 4A, 4B, 6B,6C of GSTR 1 (Other than Zero rated Nil rated and Exempted)

3.1 (b) - Outward Taxable supplies as per Column 6A of GSTR 1 (Zero rated)

3.1 (c) - Nil rated and Exempted (as per Column 4A, 4B, 6B,6C of GSTR 1 (Other than Zero rated Nil rated and Exempted)

7.0 On perusal of the GSTR3B Returns for the months of Nov-2018, Dec-2018, Feb-2018 and Aug-2019, we find that the appellant had wrongly shown the figures of the export turnover of zero rated exports in the place of other than zero rated turnover. However, the IGST is also shown to be paid, which is shown in the Table 3.1 (a), whereas, it should have been correctly shown in 3.1 (b). We find that the appellant followed up the refund on IGST paid exports with the concerned Customs authorities as there was a mismatch in the shipping bill and the GSTR1 and GSTR3B returns. This mistake on being pointed out, the appellant had voluntarily paid the entire amount of IGST of Rs. 1827272/- in the GSTR3B filed for the month of August-2019, and got the refund processed in compliance with the refund on IGST paid exports. The amounts of IGST of a total of Rs. 1827272/- (Nov-2018 – Rs. 941390/-, Dec-2018 – Rs. 455293/-, and Feb-2019 – Rs. 430587/-) paid during the respective months remained as an excess paid IGST. The Revenue also has not brought on record any evidence to show as to how the amount of IGST paid as per GSTR1 Return, was not paid erroneous, and could not be treated as excess paid amount, especially when the same amount was once again paid in August-2019.

8.0 We find that the Joint Commissioner (Appeals) has mechanically rejected the appeals and has not gone into the details of the GST Returns submitted by the appellant. It is clearly visible on record, that the appellant has paid IGST once in the respective months of November-2018, December-2018,and February-2019, and once again in the month of August-2019. The amount paid in August-2019, has been

refunded as IGST paid exports through the Customs automated process, and the amount paid during the respective months of November-2018, December-2018,and February-2019 totally amounting to Rs. 1827272/- stands as excess paid amount. It is settled law that tax cannot be collected without the authority of law. Therefore, the excess paid amount cannot be held back and is liable to be returned / refunded to the appellant.

9.0 We find that the mistake committed by the appellant while filing the GSTR3B returns, is a clerical mistake of making correct entries at wrong places, which is subsequently explained in the reconciliation statement submitted by the appellant. The clerical mistake which is on the face of record is a minor one and properly explained for which the appellant cannot be penalised by not refunding the amount paid in excess of what was due to be paid. There is no warrant for the Revenue authority concerned to retain the amounts found to have been deposited twice and reject the application for refund claimed by the appellant.

10.0 We find that our view is also supported by the Hon'ble Orissa High Court in the judgement of Rajendra Narayan Mohanty Versus Joint Commissioner of State Tax, Cuttack cited in 2026 (2) TMI 1101 - ORISSA HIGH COURT, wherein the Hon'ble High Court has held that,

> *7. It is demonstrably manifest from aforesaid discussions that retaining the amount paid in excess of tax liability by the State is hit by inhibition enshrined in Article 265 of the Constitution of India. The finding of Joint Commissioner of State Tax, CT&GST Circle, Cuttack-I East, Cuttack in his Order dated 22nd October, 2025 unequivocally accepted that the petitioner has made an excess payment of tax to the tune of Rs. 12,03,290/- (CGST of Rs. 6,01,645/- + OGST of Rs. 6,01,645/-) as the deposits were*

made once by way of utilising Credit Ledger and thereafter under mistaken notion by using Cash Ledger. However, discharge of tax liability having been accepted in the proceeding under Section 74 of the GST Act vide Order dated 08.11.2024, there is no warrant for the authority concerned to retain the amounts found to have been deposited twice and reject the application for refund claimed by the petitioner.

7.1. The reason ascribed to by the Proper Officer in rejecting the application taking into account Clause (d) of Paragraph (2) of Explanation to Section 54 is apparently flimsy and inapplicable to the fact-situation of present case. The specious plea of the authority to reject the application for refund that it was filed beyond period stipulated under Section 54 of the GST Act pales into insignificance on the anvil of Article 265 of the Constitution of India.

7.2. Under the above premise, refund claimed in respect of tax paid erroneously or under mistaken notion cannot be denied solely on the ground of limitation stipulated in Section 54 of the GST Act.

8. In the result, the writ petition is allowed. As a consequence of above discussion, Order dated 22nd October, 2025 passed by the Joint Commissioner of State Tax, CT & GST Circle, Cuttack-I East, Cuttack rejecting the application for refund cannot be sustained and the same is hereby quashed and set aside.

11.0 We also would refer to the judgement of Hon'ble Karnataka High Court, in the case of Merck Life Science Private Limited Versus The Union of India cited in 2025 (11) TMI 1419 - KARNATAKA HIGH COURT, wherein Hon'ble High Court has held that,

14. A plain reading of Section 77(1) of the CGST Act will clearly indicate that the taxpayer who pays tax to the Central Authority by oversight, inadvertence and erroneously, would be entitled to refund of the amount of taxes so paid in such manner and subject to such conditions as may be prescribed.

15. A similar provision exists in the IGST Act which relates to Inter-State supply and Section 19(1) of the IGST Act also contemplates that, if an Integrated Tax on a supply considered by the taxpayer to be an Inter-State supply is subsequently held to be an

Inter-State supply, such taxpayer shall be granted refund of the amount of integrated tax so paid in such manner and subject to such conditions as may be prescribed.

16. Rule 89(1A) of the CGST Rules, 2017 stipulate that the refund claim under Section 77 of the CGST Act and Section 19 of the IGST Act would have to be made within a period of 2 years from the date of payment by filing an application in the prescribed format.

17. In this context, it is the specific contention of the petitioner that Rule 89(1A) of the CGST Rules, 2017 and Section 54 of the CGST Act, which provide a period of 2 years is directory and not mandatory.

18. It is also pertinent to note that in the Statement of Objections filed by the respondents in all these petitions, the payment in excess made by the petitioner to the Central Authorities, though not contested, have not been disputed by the Central Authorities as can be seen from paragraph No. 11 of all respective petitions, one of which (W.P. No. 27259/2024) reads as under:

11. It is further submitted that the respondent has not contested that the petitioner has paid Rs. 52,63,596/- under IGST Head in excess whereas the same was later discharged under the correct head of CGST and SGST during March 2018. Respondent agrees that the tax was discharged in excess by the petitioner. However, the refund for the said excess payment should have been filed on the portal within due date as applicable as per the CGST Act,2017. Rule 89 of CGST Rules 2017 read with Notification No. 13/2022-Central Tax dated 05.07.2022 i.e., within February 2024. The petitioner has failed to ascertain that the excess payment of Rs. 69,88,339/- has been made by them towards IGST in time and therefore, they have failed to file the refund application in time. On the other hand, the Department has done the verification as per law, issued a show cause notice to the petitioner, granted a personal hearing, vetted the reply submitted by the noticee in light of the provisions applicable and have reached to a conclusion that the refund claim has been hit by the limitation of time. Accordingly, a speaking order was passed for rejection of the refund of Rs. 69,88,339/-.

19. As can be seen from the aforesaid Statement of Objections, payment made by the petitioner towards IGST to the Central Authorities have not been disputed by the respondents, who on the other hand only merely contend that the refund claim of the petitioner is barred by limitation. In fact, respondent Nos. 2 and 3 also admit that the

petitioner had made payment to the State GST Authorities subsequent to the payment made to the Central GST Authorities. It is therefore clear that respondent Nos. 2 and 3 have admitted that the petitioner had made such payment in favour of the Central GST Authorities towards IGST prior to making similar payment to the State GST Authorities.

20. As held by the High Court of Madras and the High Court of Andhra Pradesh in the aforesaid judgments, Section 54 of the CGST Act and Rule 89(1A) of the CGST Rules, 2017 have been held to be directory and not mandatory. It is also significant to note that having regard to Article 265 of the Constitution of India, the respondent – Central GST authorities were not entitled to collect IGST form the petitioner, who was not liable to pay the same and consequently, upon the petitioner paying the same amount to the State GST authorities subsequently, the respondent–Centre was not entitled to retain the IGST and consequently, by applying the principles of restitution and unjust enrichment, the respondent – Centre was obligated to refund IGST back to the petitioner.

21. Under these circumstances, I am of the considered opinion that the impugned orders passed by respondent No. 3 holding that the refund claim is barred by limitation is contrary to facts and law and the same deserves to be set aside by holding that the refund application/claim of the petitioner is within time and is not barred by limitation.

12.0 In view of the above discussion, we find that the appellant are eligible for refund of the excess paid IGST, and cannot be denied on the grounds of clerical mistakes or procedural infractions. The wrong entries made in the GST Returns and corrected later resulting in excess payment of IGST otherwise not due, is not a substantive infraction so as to deny the refund claim of excess payment of IGST. We find that the impugned orders in appeal passed by the Joint Commissioner (Appeals), is not at all sustainable and is liable to be set aside, and hence we pass the order as below:

ORDER

The Order-in-Appeal No. TVM-GST-000-APP-154-156-2022-JC dated 31.10.2022 is hereby quashed and set aside. The appeals filed by the appellant viz APL/6/TVP/2026, APL/8/TVP/2026, APL/9/TVP/2026, are allowed with consequential relief.

(Order pronounced in open court)

Subramanya V Rayaprol
Vice-President

Ramamoorthi Sriram
Member (Technical)

Dated: 17.09.2026