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Reserved On : 14/10/2026
Pronounced On : 23/10/2026

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO.4610 of 2025

FOR APPROVAL AND SIGNATURE:
HONOURABLE MR. JUSTICE A.S. SUPEHIA Sd/-.

and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI Sd/-

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Approved for Reporting	Yes	No
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PANILA CHEM LIMITED & ANR.
Versus
STATE OF GUJARAT & ORS.

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Appearance:
KRUTARTH K DESAI(9662) for the Petitioner(s) No. 1,2
MR ABHAY Y DESAI(12861) for the Petitioner(s) No. 1,2
MR RAJ TANNA, AGP for the Respondent(s) No. 1
MR NEEL P LAKHANI(10679) for the Respondent(s) No. 2,3

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CORAM: **HONOURABLE MR. JUSTICE A.S. SUPEHIA**
and
HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

CAV JUDGMENT

(PER : HONOURABLE MR. JUSTICE A.S. SUPEHIA)

(1) By way of the present writ petition, the petitioners seek to challenge the order dated 10.07.2024 passed by respondent No.2-Assistant Commissioner of State Tax, Bhavnagar, rejecting their refund claim, as well as the Order-in-Appeal dated 30.01.2025 passed by respondent No.3-Deputy Commissioner of State Tax, Bhavnagar, affirming the rejection of the refund claim. The petitioners further seek a direction to the respondent authorities to sanction and refund the amount of Rs.5,41,032/-, together with applicable interest.

BRIEF FACTS OF THE CASE :

(2) Petitioner No.1 is a Public Limited Company engaged in the business of manufacturing and supplying various types of chemicals, whereas petitioner No.2 is a Director of petitioner No.1-Company.

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(2.1) Petitioner No.1-Company purchased goods from M/s.Dasaldhan Chemicals Private Limited, Bharuch, vide Invoice No.19-20/2864 dated 25.11.2019. The goods were dispatched from Bharuch to Bhavnagar in a transport vehicle bearing registration No.GJ-12-BV-7880. For the transportation of the said goods, the petitioners duly generated E-way Bill Nos.6911 5485 7806 on 26.11.2019, which were valid up to 29.11.2019.

(2.2) On 27.11.2019, at approximately 08:00 a.m., the transport vehicle was intercepted by the State Tax Officer-2, Mobile Squad, Bhavnagar, at Nari Gam, Bhavnagar. It was alleged that the E-way bill had been rejected. Accordingly, proceedings under Section 129 of the Central Goods and Services Tax Act, 2017 (for short, “the CGST Act”) were initiated, culminating in the issuance of an order in FORM GST MOV-09 dated 29.11.2019, whereby tax and penalty aggregating to Rs. 5,41,032/- were imposed. The petitioners deposited the said amount to secure the release of the transport vehicle along with the goods.

(2.3) Aggrieved by the aforesaid order, the petitioners preferred an appeal before the Deputy Commissioner of State Tax, Appeal-9, Bhavnagar. By an order dated 28.02.2022, the appellate authority allowed the appeal and set aside the demand, holding that the E-way bill was active and had not been rejected, contrary to the allegation forming the basis of the impugned demand. The appellate authority further found that there was no intention on the part of the petitioners to evade payment of tax. Consequently, the appellate authority directed the State Tax Officer to refund the amount of Rs. 5,41,032/- deposited by the petitioners.

(2.4) In view of the fact that the reference number of the appellate order, being ZD240624004754K, was generated only on 03.06.2024, the

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petitioners filed an application seeking a refund of the amount deposited on 04.06.2024.

(2.5) Thereafter, respondent No.2 issued a notice in FORM GST RFD-08 dated 28.06.2024, calling upon the petitioners to furnish a copy of the detailed appellate order. The petitioners duly responded by filing a reply in FORM GST RFD-09 dated 29.06.2024, along with a copy of the appellate order.

(2.6) By an order dated 10.07.2024 passed in FORM GST RFD-06, respondent No.2 rejected the petitioners' refund claim. Aggrieved by the rejection of the refund claim, the petitioners preferred an appeal under Section 107(1) of the CGST Act before respondent No. 3.

(2.7) By an Order-in-Appeal dated 30.01.2025, respondent No.3 rejected the appeal, holding that the appellate order had been communicated to the petitioners on 08.03.2022. Accordingly, respondent No.3 held that the refund application, having been filed beyond the period of two years from the date of communication of the appellate order, was barred by limitation under Section 54(1) of the CGST Act.

SUBMISSIONS ON BEHALF OF THE PETITIONERS :

(3) Learned advocate Mr.Abhay Desai appearing for the petitioners has submitted that Article 265 of the Constitution of India mandates that no tax shall be levied or collected except by authority of law. It was contended that the State cannot retain an amount collected without the authority of law. In the present case, the appellate authority, by its order dated 28.02.2022, had set aside the demand after holding that the E-way bill was active and that there was no intention to evade payment of tax. The appellate authority had also expressly directed the State Tax Officer to refund the amount of Rs.5,41,032/- deposited by the

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petitioners. It was, therefore, submitted that, once the demand had been set aside and a specific direction for refund had been issued, the respondent authorities were duty-bound to refund the amount, even in the absence of a separate application by the petitioners. It was further contended that the continued retention of the amount by the State, despite the setting aside of the demand, amounted to collection or retention without the authority of law and was, therefore, violative of Article 265 of the Constitution of India.

(3.1) Without prejudice to the aforesaid submissions, learned advocate for the petitioners submitted that, in terms of Section 54(1) of the CGST Act, a refund application may be filed within two years from the relevant date. Explanation 2(d) to the said provision stipulates that, where tax becomes refundable as a consequence of a judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the relevant date shall be the date of communication of such judgment, decree, order or direction.

(3.2) It was submitted that, in the present case, the appellate order dated 28.02.2022, along with its summary in FORM GST APL-04, as contemplated under Section 107(11) of the CGST Act read with Rule 113(1) of the CGST Rules, was communicated through the GST portal only on 03.06.2024. Accordingly, the limitation period for filing the refund application commenced from the said date and that the application filed on 04.06.2024 was well within the prescribed period of limitation.

(3.3) It is further submitted by learned advocate Mr.Desai that the communication of the appellate order could be regarded as complete only upon the issuance of its summary in FORM GST APL-04. Reliance was placed upon Circular No.125/44/2019-GST dated 18.11.2019, issued by the Central Board of Indirect taxes and Customs (CBIC),

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which, according to the petitioners, requires a refund application arising out of an appellate order to be filed on the GSTN portal by reference to the order reference number generated on the portal, as the system processes the refund claim on the basis of such reference number.

(3.4) It was, therefore, contended that, even having regard to Section 169(1)(d) of the CGST Act, the appellate order could be treated as having been communicated only on 03.06.2024. Consequently, the refund application filed on 04.06.2024 could not have been rejected as time-barred under Section 54(1) of the CGST Act.

(3.5) It was further submitted that the respondent authorities could not be permitted to take advantage of their own delay in uploading the summary of the appellate order in FORM GST APL-04 on 03.06.2024. According to the petitioners, the authorities, having failed to upload the summary at the relevant time, could not subsequently disregard the date of its communication while determining the relevant date under Explanation 2(d) to Section 54 of the CGST Act. It was, therefore, submitted that the refund application filed on 04.06.2024 deserved to be treated as having been filed within the statutory period of limitation.

(3.6) For claiming interest on refund amount, learned advocate Mr.Desai has submitted that though the petitioners are entitled to 9% interest on refund claim, however, they would restrict to 6%.

(3.7) In support of his submissions, learned advocate Mr.Desai placed reliance on the judgment of this Court in the case of *COMSOL Energy Pvt. Ltd. vs. State of Gujarat* 2021 (55) GSTL 390.

SUBMISSIONS ON BEHALF OF THE RESPONDENT :

(4) Opposing the present petition, learned AGP Mr.Tanna submitted that the relevant date for determining the limitation period is governed by Section 54 of the CGST Act, particularly Explanation 2(d) thereto.

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The said provision stipulates that, where tax becomes refundable as a consequence of a judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the relevant date shall be the date of communication of such judgment, decree, order or direction.

(4.1) It was submitted that, in the present case, the appellate order dated 28.02.2022 was communicated to the authorized person of the petitioners on 08.03.2022. Accordingly, the relevant date was 08.03.2022, and the subsequent uploading of the summary of the appellate order in FORM GST APL-04 on 03.06.2024 would not alter the date of communication of the appellate order.

(4.2) It is contended by the learned AGP that the petitioners' contention that the date of communication of the appellate order, along with its summary in FORM GST APL-04, i.e., 03.06.2024, should be considered the relevant date, is misconceived. It was contended that FORM GST APL-04 is merely a summary of the appellate order and that Explanation 2(d) to Section 54 of the CGST Act refers to the date of communication of the order itself, and not the date on which its summary is uploaded on the portal. The summary is intended only to facilitate procedural compliance and cannot determine or extend the statutory period of limitation.

(4.3) In response to the contention that the petitioners could not have filed the refund application in the absence of the summary in FORM GST APL-04 on the GST portal, learned AGP submitted that FORM GST RFD-01 provides separate options for filing a refund application on the basis of an order received offline or online. Where an order is received offline, the applicant is required to select the offline option; where the order is received through the portal, the online option is to be selected.

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(4.4) It was, therefore, contended that, since the petitioners had received the appellate order manually, they could have filed the refund application by selecting the offline option available on the portal. It was further submitted that there was no interdependence between FORM GST APL-04 and the filing of a refund application in FORM GST RFD-01. Even in the absence of the uploading of FORM GST APL-04, the petitioners could have filed the refund application by selecting the offline option, entering the order number mentioned in the appellate order and attaching the order along with the other requisite documents.

Accordingly, it was contended that the petitioners could have filed the refund application through either of the available options within the period prescribed under Section 54(1) of the CGST Act but had failed to do so.

(4.5) Learned AGP further submitted that the proceeding in the present case has conducted manually and that the final appellate order had likewise been served manually. The summary in FORM GST APL-04 was subsequently uploaded on the GST portal on 03.06.2024, pursuant to the administrative directions issued by the Additional Commissioner (Appeals) vide letter dated 27.05.2024, requiring appellate orders to be uploaded on the portal and discontinuing the practice of passing orders manually.

(4.6) It was submitted that the subsequent uploading of the summary was undertaken to ensure that the appellate orders and related communications were made available on the GST portal and was not intended to constitute the date of communication of the appellate order for the purposes of Section 54 of the CGST Act.

(4.7) It is contended that, in a subsequent meeting held after the issuance of the aforesaid letter, the Additional Commissioner (Appeals)

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directed that appellate orders passed manually during the earlier period should also be uploaded on the GST portal. It was, therefore, contended that the uploading of the summary on 03.06.2024 was merely a consequence of the administrative directions issued for uploading earlier manually passed orders and could not be construed as the date of communication of the original appellate order.

(4.8) It is finally,submitted that, after considering the reply filed by the petitioners, the competent authority had concluded that the refund application was barred by limitation under Section 54(1) of the CGST Act, since it had not been filed within two years from the date on which the appellate order was received by the petitioners. It was further submitted that the authority had rightly treated FORM GST APL-04 as merely a summary of the appellate order and had computed the limitation period from the date of the original appellate order dated 28.02.2022, communicated on 08.03.2022. Accordingly, respondent No. 2 had rightly rejected the refund claim by the order dated 10.07.2024 passed in FORM GST RFD-06, on the ground that the application was barred by the statutory period of limitation.

ANALYSIS AND CONCLUSION:

(5) The facts established from the record are as follows:

a) The petitioners preferred a statutory appeal under Section 107 of the CGST Act, challenging the order dated 29.11.2019, whereby tax and penalty aggregating to Rs.5,41,032/- were imposed upon the petitioners.

b) The appeal came to be allowed vide order dated 28.02.2022. While allowing the appeal, the Appellate Authority directed the refund of Rs.5,41,032/- deposited by the petitioners-appellants

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under Section 129(3) of the CGST Act, subject to verification of the tax liability of the petitioners-appellants.

c) A physical copy of the appellate order was handed over to the authorized person of the petitioners on 08.03.2022.

d) The summary of the appellate order in Form GST APL-04, under Rule 113 of the CGST Rules, was uploaded on the portal on 03.06.2024.

e) On 04.06.2024, i.e., the day following the upload of Form GST APL-04, the petitioners filed an application in Form GST RFD-01 seeking a refund of the aforesaid amount.

f) On 10.07.2024, respondent No. 2 rejected the refund claim vide Form GST RFD-06 on the ground of delay.

g) The petitioners challenged the rejection order before respondent No. 3. The appeal came to be dismissed vide order dated 30.01.2025, by assigning the reason that the refund application has been filed beyond the period of limitation of two years prescribed under Section 54(1) of the CGST Act.

(6) It is the case of the petitioners that the relevant date for computing the period of limitation is 03.06.2024, i.e. when Form GST APL-04 was uploaded on the portal, and since the refund application was filed on 04.06.2024 i.e. on the following day, the application can be said to have been filed within the prescribed period of limitation and could not have been rejected on the ground of delay. The revenue, on the other hand, maintains that the relevant date is 08.03.2022, when the physical copy of the appellate order was handed over to the petitioners' authorized person.

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DETERMINATION OF RELEVANT DATE :

(7) In order to examine the controversy arising in the present writ petition in light of the aforesaid facts and rival submissions, it is necessary to refer to Section 54 of the CGST Act, particularly Explanation (2)(d) thereto, which prescribes the relevant date for claiming a refund arising as a consequence of a judgment, decree, order or direction of an appellate authority, appellate tribunal or court. The provisions of Rule 89(1) of the CGST Rules, read with Form GST RFD-01, are also relevant to the determination of the issue involved in the present case. Section 54(1) of the CGST Act reads as under :

> *"54. (1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed."*

(8) Explanation (2)(d) to Section 54 of the CGST Act is relevant for determining the relevant date. The said provision reads as under:

> *"(2). "relevant date" means-*
>
> *(d) In case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction."*

Thus, under Explanation (2)(d), the relevant date is the date on which the judgment, decree, order or direction of the competent authority, tribunal or court is communicated. In the present case, it is not disputed by the petitioners that the appellate order dated 28.02.2022 was communicated to them in physically through its authorized person on 08.03.2022. Accordingly, the date of communication of the appellate order, i.e., 08.03.2022, would ordinarily constitute the relevant date for the purposes of the said provision.

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(9) The petitioners however, contend that the appellate order, along with its summary in Form GST APL-04, was communicated only on 03.06.2024 and that the said date should, therefore, be treated as the relevant date. We are unable to accept this contention as a correct interpretation of the statutory provisions. Form GST APL-04 is issued under Rule 113 of the CGST Rules, which reads as under:

> *"113.(1) The Appellate Authority shall, along with its order under sub-section (11) of section 107, issue a summary of the order in FORM GST APL-04 clearly indicating the final amount of demand confirmed.*
>
> *(2) The jurisdictional officer shall issue a statement in FORM GST APL-04 clearly indicating the final amount of demand confirmed by the Appellate Tribunal."*

A plain reading of Rule 113 indicates that Form GST APL-04 contains a summary of the order, clearly indicating the final amount of demand confirmed. In the present case, the document uploaded on the portal on 03.06.2024 was the summary of the original appellate order dated 28.02.2022, a physical copy of which had already been handed over to the authorized person of the petitioners on 08.03.2022

At this stage, it would be apposite to refer to Form GST RFD-01, prescribed under Rule 89(1) of the CGST Rules, for claiming a refund. Rule 89, which falls under Chapter X of the CGST Rules dealing with refunds of tax, interest, penalty, fees or any other amount, provides for the filing of an application electronically in Form GST RFD-01 through the common portal, either directly or through a facilitation center notified by the Commissioner.

(10) A perusal of Form GST RFD-01 indicates the particulars required to be furnished by a taxpayer while seeking a refund. Item 7 of the form requires the applicant to specify the grounds for claiming the refund.

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Column (d) under Item 7, relating to the “Grounds of refund claim”, provides for a refund claim “On account of order”, and sub-clause (iii) thereof refers to an appeal under the heading “Type of order”. The form also provides for the selection of “Any other (specify)” as a ground for claiming a refund.

(11) Thus, Rule 89 of the CGST Rules, read with Form GST RFD-01, enables a taxpayer to seek a refund on account of an order of assessment, finalization of provisional assessment, an appellate order or any other specified order. Neither Rule 89 nor Form GST RFD-01 stipulates that a taxpayer must await the uploading of the summary of an appellate order in Form GST APL-04 before filing a refund application. Consequently, a taxpayer who has received a physical copy of an appellate order or any other order falling within the relevant category specified in Form GST RFD-01 may file an application for refund without waiting for the summary of such order to be uploaded on the portal.

(12) In view of the provisions of Section 54 of the CGST Act, read with Rule 89 of the CGST Rules and Form GST RFD-01, the relevant date for filing the refund application in the present case would be 08.03.2022, when the appellate order was communicated to the authorized person of the petitioners. Accordingly, the refund application was required to be filed within two years from the relevant date, as prescribed under Section 54(1) of the CGST Act.

(13) In the present case, the petitioners filed the refund application in Form GST RFD-01 on 04.06.2024. If the period of two years is computed from 08.03.2022, the prescribed period would have expired on 08.03.2024. The refund application was, therefore, filed beyond the

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said period, albeit on the day immediately following the uploading of the summary of the appellate order in Form GST APL-04 on 03.06.2024, the petitioners have filed the refund application.

(13.1) The petitioners' contention that 03.06.2024 should be treated as the relevant date merely because the summary of the appellate order was uploaded on that date cannot ordinarily be accepted, particularly when the appellate order itself had been communicated to the petitioners on 08.03.2022. The issue nevertheless arises is whether, in the peculiar facts and circumstances of the present case, the petitioners should be denied the refund directed by the Appellate Authority solely on the ground that the refund application was filed beyond the prescribed period of limitation.

WHETHER THE REFUND CAN BE DENIED MERELY BECAUSE THE APPLICATION WAS FILED BEYOND THE PRESCRIBED PERIOD :

(14) Having held that the relevant date for filing the refund application in Form GST RFD-01 would be 08.03.2022, the further question that arises for consideration is whether the direction issued by the Appellate Authority vide order dated 28.02.2022 to refund the amount of Rs.5,41,032/- can remain unimplemented, thereby resulting in the denial of the refund, together with consequential interest, to the petitioners.

(14.1) Once the Appellate Authority has set aside the demand and directed the refund of the amount deposited by the petitioners, the continued retention of the said amount, subject to the applicable statutory procedure, raises a serious question of legality. The right to property is constitutionally protected under Article 300A of the Constitution of India, which provides that no person shall be deprived of his property save by authority of law. Indubitably, the amount of refund

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qualifies as “property”. Article 265 further mandates that no tax shall be levied or collected except by authority of law. Article 19(1)(g) guarantees the right to practice any profession, or to carry on any occupation, trade or business. The denial of refund will affect his fundamental right also. In the present case, the demand of tax and penalty, pursuant to which the amount was deposited, came to be set aside by the Appellate Authority, which expressly directed the refund of the amount. The continued retention of the amount, despite such direction, therefore, requires consideration in the light of the aforesaid constitutional safeguards. At the same time, it must be acknowledged that the processing of a refund claim is governed by the applicable statutory provisions, including the limitation prescribed under Section 54(1) of the CGST Act. The question is whether, in the peculiar circumstances of the present case, a procedural requirement relating to the computation of the relevant date should defeat the petitioners’ claim for refund despite an existing appellate order directing such refund.

(14.2) In this regard, it would be apposite to refer to the observations of the Supreme Court in the case of *Sambhaji vs Gangabai*, 2008 (17) SCC 117, wherein the Apex Court has held thus:

> *“Procedural law is not to be a tyrant but a servant, not an obstruction but an aid to justice. A Procedural prescription is the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice.”*

The aforesaid principle emphasises that procedural requirements should ordinarily facilitate the administration of justice rather than frustrate substantive rights. In the present case, the Appellate Authority had directed the refund of Rs.5,41,032/- on 28.02.2022, whereas the summary of the appellate order in Form GST APL-04 was uploaded on the portal only on 03.06.2024. The petitioners filed the refund application on the very next day i.e. 04.06.2024.

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(15) In these peculiar circumstances, and with a view to ensuring that the petitioners' claim is not defeated solely on account of the delay in uploading the summary of the appellate order, we are of the view that the date of uploading Form GST APL-04, i.e., 03.06.2024, may be treated as the relevant date for the limited purpose of considering the petitioners' refund application in the present case. Accordingly, the refund application filed on 04.06.2024 would fall within the period of two years computed from the said date, which would be subject to constitutional safe guards.

(16) We may also observe that Section 54(1) of the CGST Act uses the expression "may make an application before the expiry of two years from the relevant date". The use of the word "may" must, however, be interpreted in the context of the provision as a whole and cannot, by itself, be construed as rendering the prescribed limitation period optional, but at the same time such rigid interpretation cannot be used or invoked for validating an illegal action.

(17) In the present case, the petitioners are armed with an appellate order directing the refund of the amount deposited pursuant to the demand of tax and penalty, which was subsequently set aside. The continued retention of the amount despite the appellate direction raises a concern that the substantive relief granted by the Appellate Authority may be rendered ineffective on account of a procedural delay. Such a consequence warrants careful consideration, particularly where the petitioners approached the authorities for a refund on the very next day after the summary of the appellate order was uploaded on the portal.

(18) The State, which collects revenue from taxpayers, is under a constitutional obligation to act fairly, transparently and in accordance with law. Its actions in matters of taxation must conform to the principles

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of fairness, predictability and the rule of law, and must not result in arbitrary or oppressive retention of amounts that are no longer supported by a subsisting demand. These principles assume particular significance where an appellate authority has already set aside the demand and directed a refund. In order to see that the amount is not illegally retained, the concerned authorities are expected to take appropriate steps to ensure timely implementation of appellate orders, which may include intimation to the tax payer for resorting to the statutory process for claiming refund. Where the filing of a refund application is necessary to give effect to such an order, the authorities should endeavour to facilitate the process and avoid procedural impediments that may frustrate the relief already granted. The retention of the amount ordered to be refunded would indirectly amount to reviving the order dated 29.11.2019, whereby tax and penalty amounting to Rs.5,41,032/- were imposed. Thus, the statutory provisions cannot be permitted to operate in a manner that would result in the revival of an illegal action. In the present case, although the physical copy of the appellate order was handed over to the petitioners' authorized person on 08.03.2022, the summary of the order in Form GST APL-04 was uploaded on the portal only on 03.06.2024. The record indicates that the uploading took place following departmental instructions issued on 27.05.2024 and 10.07.2024; the precise sequence and effect of those instructions would need to be considered in the context of the record.

(19) In view of the aforesaid peculiar circumstances, and to ensure that the refund directed by the Appellate Authority is not defeated merely because the summary of the order was uploaded belatedly, we hold that 03.06.2024, being the date on which Form GST APL-04 was uploaded on the portal, shall be treated as the relevant date for

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considering the petitioners' refund. Since the petitioners filed the application on 04.06.2024, the claim was filed within two years of the said date. The petitioners are therefore, entitled to the refund of Rs.5,41,032/-, in accordance with the appellate order and subject to the applicable law governing consequential interest

CLAIM OF INTEREST :

(20) The consequence of non-payment of refund gives rise to claim of interest under Section 56 of the Act. Section 56 reads as under:

> **"SECTION 56 : Interest on delayed refunds**
>
> If any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under subsection (1) of that section, interest at such rate not exceeding six per cent. as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax:
>
> Provided that where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding nine per cent. as may be notified by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund.
>
> Explanation.--For the purposes of this section, where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5)."

(21) The first part of Section 56 mentions about grant of interest at the rate of 6% in case the amount is not refunded within sixty days as ordered by the proper officer under Section 54(5) on the application filed for refund. The Proviso deals with the situation akin to the case of the petitioners. The Proviso directs the payment of interest not exceeding 9% in case the amount is not paid within 60 days as ordered by the

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Appellate authority or by the Tribunal or Court, in case such order has attained finality. However, the Proviso also mentions about filing of an application consequent to such order. Thus, if any application for refund, as a consequence of any order, is made within a period of two years, and on the receipt such application, if the amount is not refunded it gives rise to claim of interest. As per the statement made before us by learned advocate Mr.Desai, the petitioners will be satisfied, if the amount of refund is paid at the rate of 6% instead of 9 %. In the prayers made in the writ petition, the petitioners have neither claimed particular rate of interest nor any date is specified. Since the petitioners were supposed to file the application for refund on receipt of the physical copy of the Appellate order and they did not do so, they would not be entitled to interest from the date of such order. Since, alternatively, we have determined the date of application as 04.06.2024, the amount of refund will carry interest at the rate of 9% after 60 days as per the Proviso to Section 56, the period would end on 03.08.2024. In order to balance the equities, and since the petitioners are not asserting for 9% interest, we direct that the petitioners shall be entitled to interest at the rate of 6% on the amount of Rs.5,41,032/- w.e.f 15.08.2024 till it is actually paid.

: **FINAL ORDER** :

22. Hence, the writ petition stands ***allowed***. The impugned order dated 10.07.2024 and 30.01.2025 are quashed and set aside.

The respondents are directed to process the refund application dated 04.06.2024. We further clarify that in case the portal does not allow the filing and processing of the refund application, it will be open for the petitioners to file a fresh off-line application. On receipt of such application, the respondents are directed to process the same and pay the amount of refund along with interest which shall be

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calculated at the rate of 6% from 15.08.2024. The present directions shall be implemented within a period of 12 weeks, failing which the petitioners will be entitled to 9% interest per annum on the amount of refund after 12 (twelve) weeks. RULE is made absolute accordingly.

Sd/- .
(A. S. SUPEHIA, J)

Sd/- .
(VAIBHAVI D. NANAVATI,J)

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Bhavesh-[PPS] (pradhyuman)*

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