

Alex Tour and Travel Private Limited v. Assistant Commissioner, CGST, Division-Janakpuri

Case number: W.P.(C) 5722/2023 with CM APPL. 22428/2023

Citation: 2023:DHC:3303-DB

Decision date: 8 May 2023

Appellate refund orders cannot be ignored merely because the Revenue intends to appeal

Court: Delhi High Court

Bench: Hon'ble Mr. Justice Vibhu Bakhru and Hon'ble Mr. Justice Amit Mahajan

Decision stage: Final High Court refund-enforcement decision; the Revenue's statutory remedy was preserved. Later orders addressed interest and recorded redress of a follow-on interest grievance, without reversing this judgment.

01 Facts of case and issues

Alex claimed unutilised input-tax credit on inputs and input services used for export of services: Rs. 46,38,276 for FY 2018–19 and Rs. 2,15,63,451 for FY 2019–20, totalling Rs. 2,62,01,727. Its original refund applications were filed on 13 and 14 April 2021. Seven rejection orders treated the services as intermediary services and questioned foreign inward remittance certificates (FIRCs).

Three appellate orders dated 8 February and 28 July 2022 allowed the claims. The appellate authority accepted consolidated bank FIRCs in the circumstances. Nevertheless, after further RFD-01 filings, the Department issued deficiency memos and a show-cause notice and withheld processing. It considered the appellate decisions erroneous and proposed appeals once the Tribunal was constituted. The writ sought implementation and interest.

Pinpoint: Paragraphs 3–16, physical pp. 1–5; claim table: paragraph 6, p. 2; appellate orders and quoted findings: paragraphs 10–12, pp. 3–4.

02 Discussion by Hon'ble Court

The Court distinguished the Revenue's right to challenge an appellate decision from its obligation to comply while that decision remains operative. An intention to appeal did not authorise ignoring the appellate orders. No competent court had stayed implementation, and the Department had taken no steps to secure such an order.

The Bench also rejected the insistence on fresh refund applications. Revenue counsel accepted that fresh applications or replies to the later notices were unnecessary because the original refund proceedings had already culminated in appellate orders. Those subsequent implementation applications and deficiency memos were treated as non est.

Interest had not been awarded by the appellate authority. That omission did not justify denying lawful interest for the substantial delay: more than a year had elapsed after the February order and almost ten months after the July orders. The Court required interest according to law, without fixing a rate or undertaking a numerical computation.

02 Discussion by Hon'ble Court

The decisive High Court issue was enforcement of existing appellate entitlements. The quoted export-of-services and FIRC conclusions belonged to the appellate authority; this judgment is not a universal exemption from documentary requirements.

Pinpoint: Paragraphs 17–24, physical pp. 5–6; reproduced appellate reasoning: paragraphs 11–12, pp. 3–4.

03 Judicial decision and operative relief

The writ was allowed. The respondent was directed to disburse the refund forthwith, together with interest payable according to law. There was no remand for fresh eligibility adjudication. The Court expressly preserved the Department's statutory remedy against the Orders-in-Appeal; it did not declare those orders immune from future lawful challenge.

Pinpoint: Paragraphs 25–26, physical p. 6; treatment of later implementation applications and deficiency memos: paragraphs 20–22, pp. 5–6.

04 In favour of

Taxpayer, on immediate implementation of appellate refund entitlement and lawful delayed-refund interest.

Final refund relief was granted, subject to the expressly preserved statutory challenge. The judgment did not independently fix an interest rate, determine a universal FIRC standard or establish actual payment.

Pinpoint: Paragraphs 11–12 and 23–26, physical pp. 3–4 and 6.

05 AKHB REVIEW POINT

AKHB analysis: Preserve the original refund applications, appellate orders, proof of their communication, remittance evidence and any actual stay or withholding order. Separate a proposed appeal from a filed proceeding and operative protective relief. Identify what the appellate order conclusively decided instead of restarting the same refund merits administratively.

Calculate interest separately under the applicable statute and rules; an award "according to law" is not an automatic rate or a court-approved calculation. Check subsequent implementation orders and payment records. Do not extend this ruling to a distinct, lawfully exercised statutory withholding power or substitute its historical Tribunal observations for current appeal-deadline advice.

Pinpoint: AKHB commentary based on paragraphs 17–26, read with the separately identified later orders and statutory checks. These are practical checks, not additional judicial directions.

Sources and limitations

Relevant provisions

IGST Act 2017 Section 16(3)(a), as then applicable, and Section 2(6) in the quoted appellate order; CGST Act 2017 Sections 54(5) and 112. Contextual statutory checks: CGST Act Sections 54(3), 56 and 112(1), (3); later distinct withholding context: CGST Act Section 54(11).

Statutory note

The judgment uses the historical IGST Section 16(3)(a) export-without-tax refund route. Subsection (3) was replaced from 1 October 2023; that later wording is not retroactively attributed to this May judgment. Section 2(6) appears in reproduced appellate reasoning. Paragraph 17 speaks of a three-month Revenue appeal period: the historical CGST text distinguishes the three months in Section 112(1) from the Commissioner-directed application's six months in Section 112(3). This note does not adopt that sentence as Revenue limitation advice or determine any extended/current filing deadline. CGST Section 56 supplies the contextual delayed-refund framework and deems an appellate refund order an order under Section 54(5); the judgment itself awards lawful interest without a specified rate.

Treatment note

Checked 13 October 2026. In W.P.(C) 12739/2023, the 18 December 2023 order recorded partial interest/refund developments and the Revenue's statement that balance interest from sixty days after the first applications would be computed and disbursed. It expressly declined to initiate contempt, following the earlier show-cause order. On 23 February 2024, CM APPL. 66063/2023 in the original writ was disposed of after the Bench found no ambiguity and identified Section 56 and the Rules as governing interest. In W.P.(C) 2738/2024, the 3 April 2024 order recorded a Rs. 17,70,132 pay order/cheque and the taxpayer's statement that its interest grievance was redressed; that petition was withdrawn. Bank receipt was not independently verified. The official portal showed all three writs disposed, with no next date, at this check. Separately, Devi Electronics (1 October 2026), paragraphs 14–17, distinguished the contemplated-appeal-only situation from independently justified Section 54(11) withholding based on pending proceedings and the requisite Commissioner opinion after hearing. It did not reverse Alex or finally determine the alleged fraud. This bounded review is not exhaustive appellate/citator clearance or certification of all payment compliance.

Scope of source review

All six original judgment pages, including the complete claim table and appellate extract, fully read and individually viewed. Historical CGST compilation physical pp. 89–90, 94–95 and 143–144 were read and viewed for targeted Sections 54, 56 and 112. IGST Section 2(6) and Section 16/amendment footnotes were checked in official web text; direct PDF retrieval timed out. Supplementary review is limited to identified passages, not entire statutory compilations. All ten retrieved short later orders across the three Alex writs, sixteen pages in total, were fully read and individually viewed. Devi Electronics was reviewed only for targeted identity, cited treatment and relief: physical pp. 1, 2, 5, 10, 11, 18, 19 and 20 were individually viewed; no full twenty-page visual review is claimed.

Source notes

The formal caption identifies a writ petition; paragraph 3 loosely calls it an appeal. Paragraph 22 says Orders-in-Original although the implementation context throughout concerns Orders-in-Appeal; this source wording is not silently corrected as a quotation. The quoted 8 February 2022 appellate extract refers to four claims, whereas paragraph 10 maps that order to October 2019–March 2020; the independent appellate originals were not obtained. Decision date is 8 May 2023; signing artwork is dated

12 May 2023. The full seven-row refund table totals Rs. 2,62,01,727. Fresh official judgment bytes exactly match the archived source. Cryptographic signature validation was not performed.

Primary source

Source description: Complete six-page official Delhi High Court judgment; retained original unchanged and fresh official PDF byte-matched.

Official source: [Open source document](#)

Source pages: 6

Judgment author: Vibhu Bakhru, J. (oral judgment)

Outcome type: final high court merits

Additional source

CGST Act, official CBIC compilation as at 1 January 2022

Official source: [Open source document](#)

Pinpoint: Physical pp. 89–90 (printed 88–89): relevant Section 54 provisions; pp. 94–95 (printed 93–94): Section 56; pp. 143–144 (printed 142–143): Section 112(1)/(3). Historical targeted check, not a complete current consolidation.

IGST Act, India Code compilation as on 23 May 2025

Official source: [Open source document](#)

Pinpoint: Physical pp. 5–6: Section 2(6); p. 17: Section 16 and footnote recording replacement of subsection (3) from 1 October 2023. Targeted official web-text check; direct download timed out.

CBIC Tax Information Portal: IGST Section 16

Official source: [Open source document](#)

Pinpoint: Official indexed text and amendment footnote reproduce the historical Section 16(3)(a) wording and identify its subsequent replacement. Direct page opening failed; indexed passage checked.

CBIC Tax Information Portal: CGST Section 112

Official source: [Open source document](#)

Pinpoint: Official indexed subsections (1)/(3) distinguish three-month appeal and six-month Commissioner-directed application periods; current text includes later notified-date machinery. No case-specific current deadline calculated.

Delhi High Court: Alex, W.P.(C) 12739/2023, 18 December 2023

Official source: [Open source document](#)

Pinpoint: Complete two-page order, paragraphs 1–4: interest submissions, refusal to initiate contempt and disposal. Read with the earlier show-cause, not as a contempt conviction.

Delhi High Court: CM APPL. 66063/2023 in W.P.(C) 5722/2023, 23 February 2024

Official source: [Open source document](#)

Pinpoint: Complete two-page order, paragraphs 2–4: no ambiguity in the original judgment; interest under Section 56 and the Rules; application disposed.

Delhi High Court: Alex, W.P.(C) 2738/2024, 3 April 2024

Official source: [Open source document](#)

Pinpoint: Complete two-page order, paragraphs 1–4: further interest dispute, pay order/cheque produced, recorded redress and withdrawal. No independent bank-credit verification.

Delhi High Court: Devi Electronics, W.P.(C) 15557/2024, 1 October 2026

Official source: [Open source document](#)

Pinpoint: 2026:DHC:8551-DB; targeted paragraphs 14–17, pp. 10–11, distinguish Alex; paragraphs 25–27 and 29–32, pp. 17–20, provide context and limited disposition. No comprehensive standalone review of Devi.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete official judgment and identified primary sources. No human legal review is claimed.

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Source checked: 13 October 2026