

Sincon Infrastructure Pvt. Ltd. v. The Union of India and Others

Case number: Civil Writ Jurisdiction Case No. 11621 of 2023

Citation: 2024(4) eILR(PAT) HC 1299

Decision date: 19 April 2024

Delayed GST payment interest and the proper officer's independent responsibility after audit

Court: Patna High Court

Bench: Hon'ble Chief Justice K. Vinod Chandran and Hon'ble Mr. Justice Harish Kumar

Decision stage: Final High Court merits dismissal; Supreme Court notice-stage order dated 27 August 2024 separately verified. Latest appellate disposal or interim status not established.

01 Facts of case and issues

Sincon challenged recovery of interest arising from two of nine audit objections for FY 2017-18 and FY 2018-19. The audit report dated 26 August 2022 was answered on 12 September. Seven objections entered Section 74 proceedings; the two interest objections instead led to a 30 December 2022 demand and Section 79 recovery. Sincon alleged that the proper officer had adopted the Monitoring Committee's decision without independently deciding its objections.

The judgment records Rs. 82,57,170 interest for FY 2018-19, whose GST liability was offset through DRC-03 on 12 May 2020 using the credit ledger, and Rs. 33,03,954 for FY 2017-18, offset through the cash ledger on 30 January 2020. The Court expressly presumed that the latter was also the return-filing date. Sincon invoked the proviso to Section 50(1), arguing that credit-ledger adjustment should escape interest because the suppliers' tax was already with the Government.

Pinpoint: Paragraphs 1-5, physical pp. 5-9 (judgment pp. 2-6); amounts, payment modes and dates: paragraphs 23-24, physical pp. 25-26 (judgment pp. 22-23).

02 Discussion by Hon'ble Court

Reading Sections 39, 41, 49 and 50 together, the Division Bench distinguished a ledger balance from discharge of a particular liability. A cash deposit remained available for appropriation; the Court treated payment as occurring upon return-filing and debit. Supplier remittance likewise did not itself create the purchaser's self-assessed credit or its utilisation.

The Court preferred India Yamaha Motor and RSB Transmissions to the contrary reasoning in Refex Industries. It extended the debit-based analysis to the credit ledger and rejected Sincon's construction that Section 50(1)'s proviso wholly immunised credit-ledger payments. Paragraphs 21-22 express a broad view that delayed returns attract interest whichever ledger is debited. Paragraph 28 considers earlier accumulated ITC but still treats its availability as insufficient without appropriation. These are the Court's conclusions; their application to another case requires the statutory qualifications below.

On administrative authority, however, the Court accepted the substance of Sincon's objection. Section 168 permits Board instructions but does not authorise a further body to dictate binding adjudicatory outcomes to the proper officer. Audit objections and Monitoring Committee decisions cannot replace that officer's

02 Discussion by Hon'ble Court

own assessment and recovery decision. Nevertheless, having itself rejected the interest challenge on merits for both years, the Court considered remand a useless formality.

Pinpoint: Authorities: paragraphs 6-10, physical pp. 9-15; statutory reasoning: paragraphs 11-22, pp. 15-25; independent officer and refusal to remand: paragraphs 25-28, pp. 26-29.

03 Judicial decision and operative relief

The writ petition was dismissed, with each side bearing its own costs. Neither interest demand was quashed and no fresh adjudication was ordered. The adverse finding about Monitoring Committee directions therefore produced no operative relief for Sincon.

Pinpoint: Paragraphs 27-29, physical pp. 28-30 (judgment pp. 25-27).

04 In favour of

Revenue on the operative result and interest dispute; the taxpayer's objection to dictated decision-making was accepted in principle but did not secure relief.

This was a substantive dismissal, rather than a procedural remand. It does not validate binding audit-committee instructions or decide the other seven audit objections. Nor should its refusal to remand be treated as permission to dispense with independent adjudication in every disputed-interest recovery.

Pinpoint: Paragraphs 1-2 and 24-29, physical pp. 5-6 and 26-30.

05 AKHB REVIEW POINT

AKHB analysis: Reconcile each tax period's return, DRC-03, deposit date, credit entitlement and actual debit. Keep the two financial years and ledger types separate. A bank payment, unappropriated cash balance, supplier remittance and usable ITC are different facts; none should be assumed from another. Preserve the audit reply, hearing record and the proper officer's reasons.

Do not convert this judgment into a universal gross-tax interest rule. The retrospective proviso and Rule 88B(1) concern supplies declared in the return for that same period, with a stated exception for returns filed after commencement of Section 73/74 proceedings. Rule 88B(2) addresses other cases. Here the Court described DRC-03 offsets; it did not make a separately reasoned classification establishing every condition of Rule 88B(1). The later audit notices do not themselves establish that proceedings had commenced before the 2020 payments.

For a current dispute, test those conditions before applying Sincon's broader language. Also examine the July 2024 cash-balance relief and obtain the current orders in Sincon's Supreme Court proceedings. The verified notice order neither affirms the High Court reasoning nor stays it.

Pinpoint: AKHB commentary based on paragraphs 2-5, 19-29; Finance Act 2021 Section 112; Notifications 14/2022 and 12/2024; Supreme Court order dated 27 August 2024.

Sources and limitations

Relevant provisions

CGST Act Sections 2(16), 2(43), 2(46), 39, 41, 49, 50(1) and its proviso, 65(7), 73, 74(1), 74(5), 79 and 168; CGST Rules 88B and 142. Later Central material: Finance Act 2021 Section 112; Notification 14/2022-Central Tax, amending rule 7; Notification 12/2024-Central Tax, amending rule 15.

Statutory note

Finance Act 2021 Section 112 substitutes the Section 50(1) proviso with deemed effect from 1 July 2017; Notification 16/2021 brought Section 112 into force on 1 June 2021. The same-period-return and Section 73/74 exceptions are material. Notification 14/2022 dated 5 July 2022 inserted Rule 88B with deemed effect from 1 July 2017: sub-rule (1) specifies the qualifying cash-paid portion; sub-rule (2) covers other unpaid-tax cases; sub-rule (3) separately concerns wrongly availed and utilised ITC. Sincon's two interest objections were not decided as wrongful-ITC utilisation under Section 50(3). Notification 12/2024 dated 10 July 2024 later added a proviso excluding qualifying cash credited by the return due date and continuously remaining until debit on filing. Its general commencement clause is publication-based; amending rule 15 contains no express retrospective date. That later text cannot simply be assumed to erase these historical DRC-03 demands. Applicable period, Central/State versions, subsequent amendments and binding treatment require separate checking.

Treatment note

Checked 12 October 2026. The Supreme Court's actual one-page order of 27 August 2024 in Diary 32888/2024, expressly arising from this judgment, condoned delay and issued notice on the stay prayer and SLP, returnable in four weeks. It contains no stay or merits determination. The Court's May 2026 Patna-case list identifies the registered matter as SLP(C) 19858/2024, and its advance list for 22 May 2026 includes it at item 372. Listings establish identity/listing, not what occurred at the hearing or present pendency. No later substantive order or definitive current interim/disposal status was established in this bounded official-source check. Refex's contrary approach and the competing authorities are identified in Sincon itself; no all-India resolution is claimed. Recheck the live docket before reliance. This is not a complete docket or citator review.

Scope of source review

All 30 physical pages read fully and individually visually inspected: editorial pp. 1-3, court judgment pp. 4-30. The entire one-page Supreme Court order was read and viewed. Relevant pages of the identified legislation and Supreme Court listings were separately inspected; no full review of every supplementary compilation is claimed.

Source notes

The reporter's first three pages are not judicial reasons. The actual caption is CWJC 11621/2023; the appearances also mention CWJC 3592/2023, but this source does not supply a separate joined caption or operative disposition for it. The judgment is a Division Bench decision, not a Single Judge decision. Paragraph 3 refers to Section 51 while narrating the audit contention; the Court's interest analysis applies Section 50. CAV date 8 April 2024 is distinct from decision/upload date 19 April. A fresh official fetch on 12 October 2026 had different PDF bytes but identical full extracted text and all 30 rendered page images; the archived original and its recorded hash remain unchanged. PDF parsing or visible signature artwork does not establish cryptographic signature validation.

Primary source

Source description: Official Patna High Court eLR report containing three editorial pages followed by the complete 27-page judgment; archived original preserved byte-for-byte.

Official source: [Open source document](#)

Source pages: 30

Outcome type: final high court merits

Additional source

Supreme Court order in Sincon Infrastructure, 27 August 2024

Official source: [Open source document](#)

Pinpoint: Complete one-page Record of Proceedings, Diary 32888/2024: paragraphs 1-2 condone delay and issue notice on the stay prayer and SLP. No stay is granted in this order.

Supreme Court advance list for 22 May 2026

Official source: [Open source document](#)

Pinpoint: Physical p. 82, item 372: Sincon Infrastructure Pvt. Ltd., SLP(C) 19858/2024. A listing, not a judicial order or certification of current status.

Supreme Court Special Lok Adalat Patna-case list, May 2026 official upload

Official source: [Open source document](#)

Pinpoint: Physical p. 14, row 204: Diary 32888/2024, SLP(C) 19858/2024 and lower-court CWJC 11621/2023 dated 19 April 2024. Identity cross-check only.

Finance Act 2021, official GST Council extract

Official source: [Open source document](#)

Pinpoint: Physical p. 3, printed Gazette p. 62, Section 112: substituted Section 50(1) proviso with deemed effect from 1 July 2017. This source is an extract, not the complete Finance Act.

Notification 16/2021-Central Tax, 1 June 2021

Official source: [Open source document](#)

Pinpoint: Physical p. 1: appoints 1 June 2021 as commencement of Finance Act 2021 Section 112.

Notification 14/2022-Central Tax, 5 July 2022

Official source: [Open source document](#)

Pinpoint: Physical pp. 2-3, amending rule 7: inserts Rule 88B with deemed effect from 1 July 2017; distinguishes sub-rules (1), (2) and (3).

Notification 12/2024-Central Tax, 10 July 2024

Official source: [Open source document](#)

Pinpoint: Physical p. 1, rule 1(2), publication-based general commencement; physical p. 6, amending rule 15, qualifying continuous cash-balance exclusion inserted after Rule 88B(1).

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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