

M/s Graphite India Limited v. The State of Bihar and Others

Case number: Civil Writ Jurisdiction Case No. 172 of 2024

Citation: 2024(7) eILR(PAT) HC 2157 (as printed in the official PDF)

Decision date: 10 July 2024

Unclaimed VAT transitional credit cannot be converted into a cash refund under Section 142(8)(b)

Court: Patna High Court

Bench: Hon'ble Chief Justice K. Vinod Chandran and Hon'ble Mr. Justice Partha Sarthy

Decision stage: Final High Court merits dismissal of the cash-refund writ; subsequent special leave petition dismissed on 17 January 2025.

01 Facts of case and issues

Graphite India, formerly assessed under the Bihar Value Added Tax Act, 2005, sought cash repayment of a portion of pre-GST input tax credit. The Court recorded a total VAT-period claim of Rs. 1,88,60,453.42. When GST commenced on 1 July 2017, the company submitted Form GSTR TRAN-1 for Rs. 1,68,78,801. It deliberately omitted the balance, stated throughout the judgment as Rs. 19,81,652, because the supporting statutory forms were then unavailable. These are the judgment's recorded figures; the note does not recompute the disputed claim.

A later assessment recognised the credit, including the omitted amount, for carry-forward. However, the separate cash-refund request was rejected by the order identified as Annexure P/7. The taxpayer invoked Sections 140 and 142(8)(b), arguing that recognition in the assessment entitled it to cash payment. The question was whether that provision converted unclaimed transitional credit into a refundable amount despite the company's failure to include it in TRAN-1 or use the later revision opportunity.

Pinpoint: Official PDF physical pp. 3–6 (judgment pp. 1–4), paragraphs 1–7; facts and amounts principally in paragraphs 3–4.

02 Discussion by Hon'ble Court

The Court distinguished a statutory refund emerging from an old-law assessment from credit recognised for carry-forward. Section 142(8)(b) concerns tax, interest, fine or penalty becoming refundable through assessment or adjudication under the earlier law. Here, the assessment had allowed ITC for carry-forward, not ordered cash repayment. The omitted amount had not entered the transitional claim. Accordingly, paragraph 8 rejected both a cash refund and set-off of that omitted portion through this claim; Section 142(8)(b) did not supply the missing entitlement.

The failure to use available filing opportunities was independently material. The company neither revised its declaration before 27 December 2017 nor used the Supreme Court-directed window from 1 October to 30 November 2022. The Court distinguished Adfert Technologies, which addressed transitional filing difficulties in 2019. This petitioner had successfully uploaded a substantial claim and obtained its set-off. Its omission was conscious and related to missing substantiation, rather than unfamiliarity, lack of expertise or a technical portal problem.

02 Discussion by Hon'ble Court

The Court also discussed Sections 16 and 49 on statutory credit and its use against output tax, and Section 18 on special-circumstance credit, including subsection (2)'s one-year limit. Paragraph 15 returned to the decisive transitional requirement: the credit had to be claimed in TRAN-1 within the original or later opportunity. These observations accompany the specific omitted-credit dispute; they should not be recast as abolition of every statutory ITC-refund route.

Pinpoint: Official PDF physical pp. 5–14 (judgment pp. 3–12), paragraphs 5–16; core refund distinction in paragraphs 7–8; missed windows and Adfert distinction in paragraphs 9–12; statutory discussion in paragraphs 13–15.

03 Judicial decision and operative relief

The Division Bench declined to interfere with the refund-rejection order and dismissed the writ petition. No cash refund, interest, reopening of TRAN-1 or remand was directed. Paragraph 16's statement that ITC operates as set-off must be read with paragraphs 8, 12 and 15: it did not newly authorise set-off of the omitted Rs. 19,81,652 after the filing opportunities had expired. The judgment therefore left the challenged refusal of cash repayment intact.

Pinpoint: Official PDF physical p. 14 (judgment p. 12), paragraphs 16–17, read with physical pp. 7, 10 and 13–14, paragraphs 8, 12 and 15.

04 In favour of

The State of Bihar and its tax authorities. The taxpayer's cash-refund writ was dismissed on the merits.

This was a substantive defeat for the claimed cash-refund remedy, not a procedural dismissal with liberty to resubmit. The credit actually included in the earlier TRAN-1 had already been allowed. The subsequent Supreme Court order dismissed the taxpayer's request for special leave after condoning delay, without a substantive discussion of the transitional-credit provisions.

Pinpoint: HC official PDF physical pp. 10 and 14, paragraphs 12 and 16–17; Supreme Court order dated 17 January 2025, physical p. 1, paragraphs 1–4.

05 AKHB REVIEW POINT

AKHB analysis: In a legacy-credit dispute, separate the assessment's recognition of a credit balance, its lawful transition through TRAN-1, and an independently available cash-refund entitlement. Obtain the filed declaration, revision acknowledgments, supporting statutory forms, assessment order and refund order. A favourable assessment does not by itself resolve a missing transitional declaration or establish that a sum was ordered refundable.

Read this decision alongside the Filco procedural orders. The reopening opportunity allowed filing or revision followed by verification; it did not automatically establish eligibility. The 2 September 2022 order expressly kept Section 140 questions of law open. CBIC Circular 180/12/2022-GST implemented the October–November window. It is historical, and this note provides no current filing window.

For a different claim, identify its actual statutory route and factual differences before relying on the broad language about cash. The judgment did not adjudicate a separate Section 54 refund claim. Preserve evidence of any genuine filing obstruction and distinguish it from a voluntary omission. Verify subsequent treatment and the applicable Central or State provisions before advising on another taxpayer's remedy.

Pinpoint: AKHB commentary based on HC paragraphs 3–4, 7–16; Filco order dated 2 September 2022, physical p. 2; CBIC Circular 180/12/2022-GST, paragraphs 3, 4.6 and 5 (physical pp. 2–5). Practical steps and limits are analysis.

Sources and limitations

Relevant provisions

CGST Act, 2017 as identified in the judgment: Sections 140 and 142(8)(b); related discussion of Sections 16, 18 and 49. CGST Rules, 2017: Rule 117 and TRAN-1 framework. Bihar Value Added Tax Act, 2005.

Statutory note

The note reports the Court's treatment of a Bihar VAT transitional-credit claim. Section 18(2)'s one-year restriction concerns credit under Section 18(1), not every species of ITC. The judgment's reference to an electronic cash ledger in paragraph 13 is not repeated as a statutory statement: Sections 16(1) and 49(2) use electronic credit ledger. The judgment does not adjudicate a distinct Section 54 refund entitlement.

Treatment note

Subsequent order verified: on 17 January 2025, the Supreme Court (J.B. Pardiwala and R. Mahadevan, JJ.) condoned delay and dismissed SLP (C) Diary No. 50988/2024, expressly identifying this High Court judgment. Its brief order records no reason to interfere but contains no substantive tax analysis. It should not be described as a reasoned Supreme Court adoption of every proposition below. Bounded official-domain/public-web checks on 12 October 2026 do not establish the complete review/curative or later citation history; no exhaustive current-status assurance is given.

Scope of source review

All 14 physical PDF pages reviewed. Physical pp. 1–2 are eILR editorial caption/headnote; the judicial decision is physical pp. 3–14, numbered 1–12, with paragraphs 1–17 and judicial names at the conclusion. Pinpoints use physical pagination first.

Source notes

The preserved court PDF prints HC 2157, whereas search-index text for the identical URL displays HC 2097. Identity is anchored to CWJC 172/2024 and the judicial conclusion dated 10 July 2024; these citations have not been silently merged. The judgment contains apparent slips, including 31.06.2017 in paragraph 3, a single Section 143(8)(b) reference in paragraph 5, 40 days in paragraph 9 and electronic cash ledger in paragraph 13. The analysis relies on the operative Section 142(8)(b) discussion and avoids propagating those slips. The source states Rs. 19,81,652 as the omitted claim, despite the .42 in the total; no monetary correction is inferred.

Primary source

Source description: Complete official Patna High Court eILR PDF: 2 editorial pages followed by the 12-page judicial text.

Official source: [Open source document](#)

Source pages: 14

Outcome type: final high court merits

Additional source

Supreme Court order dismissing the SLP arising from this judgment dated 17 January 2025

Official source: [Open source document](#)

Pinpoint: Physical p. 1, paragraphs 1–4. Subsequent refusal of special leave; no substantive tax analysis.

Union of India v. Filco Trade Centre Pvt. Ltd., Supreme Court order

Official source: [Open source document](#)

Pinpoint: Physical p. 2, unnumbered operative order. Four-week portal-opening extension and express reservation of Section 140 questions of law.

CBIC Circular No. 180/12/2022-GST dated 9 September 2022

Official source: [Open source document](#)

Pinpoint: Paragraphs 3, 4.6 and 5, physical pp. 2–5. Administrative implementation, not a judicial merits decision.

Disclosures and source rights

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

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Source checked: 12 October 2026