

M/s Hallmark v. Jammu and Kashmir Goods and Services Tax Department and Another

Case number: WP(C) No. 2025/2020; CM No. 7929/2020

Citation: 2024:JKLHC-JMU:2625-DB

Decision date: 25 September 2024

Timely GST refund application survives a follow-up filing requested through a deficiency memo

Court: High Court of Jammu & Kashmir and Ladakh at Jammu

Bench: Hon'ble Acting Chief Justice Tashi Rabstan and Hon'ble Mr. Justice Puneet Gupta

Decision stage: Final High Court merits decision on refund limitation, with a direction to process and release the refund; subsequent appellate status not established.

01 Facts of case and issues

Hallmark, a garment-manufacturing partnership, sought Rs. 2,91,650 as excess GST paid when customer returns exceeded outward supplies during January, February, March and July 2018. It stated that the excess had not been adjusted against subsequent tax liability and that its final GST return was filed on 20 September 2018.

Its first RFD-01 refund application was filed on 8 September 2020. On 23 September the officer sought supporting documents and an explanation, advising refiling after rectification. Hallmark refiled on 28 September. A second RFD-03 dated 15 October rejected the claim solely as time-barred. The issues were whether the later filing displaced the timely original application and whether a rejection could be made without hearing Hallmark. The excess-payment amount itself was undisputed.

Pinpoint: Paragraphs 1–9, pp. 2–4; original supporting documents: paragraph 14, pp. 6–7.

02 Discussion by Hon'ble Court

The Division Bench applied Section 54(1) and Explanation (2)(h). On the recorded return/payment chronology, it treated 19 September 2020 as the deadline and the 8 September application as timely. This was the Court's case-specific calculation, not a rule making every annual or final return the relevant date. The Court found that returns and a chartered accountant's certificate had already accompanied the original application. The later filing supplied the requested explanation and continued the same, unclosed refund proceeding. Its nature had not changed. Limitation therefore had to be tested against the original filing. Paragraph 17 expressly distinguishes cases where the first proceeding has ended.

Relying on National Internet Exchange of India and Bharat Sanchar Nigam Limited, the Court explained that further clarification does not make an application, otherwise supported by the prescribed documents and not materially deficient, legally nonexistent. It also held that Rule 92(3) required a hearing before rejecting the refund; the Department's reliance on the deficiency-memo circular did not answer that requirement. Evasive objections failed to address the first application. The unpleaded alternative-remedy contention under Section 108 was rejected at that stage.

Pinpoint: Paragraphs 10–17, pp. 5–9; cited Delhi decisions: paragraphs 18–19, pp. 9–10; hearing, pleadings and maintainability: paragraphs 20–22, pp. 10–11.

03 Judicial decision and operative relief

The writ was allowed and RFD-03 reference Z00110200180922 dated 15 October 2020 was quashed. The respondents, particularly the Assistant Commissioner, were directed to process and release Hallmark's refund with 7% interest from when it fell due until final realization. The judgment fixes neither a calendar interest-start date nor a separate deadline for paying the refund.

Costs of Rs. 30,000 were payable to Hallmark through its authorised partner, after verification and identification, within two months of judgment. Paragraph 24 also directs that failure to deposit the costs in the Registry within that period should trigger a separate robkar, notice and listing before the Court. That two-month period concerns costs. The connected application was disposed of.

Pinpoint: Paragraphs 23–24, pp. 11–12; undisputed refund amount: paragraph 9, p. 4.

04 In favour of

Taxpayer: Hallmark obtained a substantive limitation ruling, refund-release direction, interest and costs.

The Court did more than order reconsideration or a fresh hearing. Its refund direction rested on the timely, documented original claim and the Department's failure to dispute the excess payment. It does not establish automatic refund entitlement whenever a deficiency memo is issued.

Pinpoint: Paragraphs 9, 14–17 and 20–24, pp. 4 and 6–12.

05 AKHB REVIEW POINT

AKHB analysis: Preserve the original ARN, submitted RFD-01, uploaded documents, deficiency memos and refiling trail. Show that the follow-up concerns the same claim and that the initial proceeding remained open. A materially incomplete first filing or a concluded earlier proceeding requires separate analysis.

For present claims, examine Rule 90(3)'s 2021 proviso: it excludes the original-filing-to-deficiency-communication interval when computing two years for a rectified fresh claim. It does not exclude every day until refiling. Hallmark concerned 2020 applications and did not decide that amendment's temporal application.

Treat 7% as the relief actually ordered here. Do not present it as the ordinary statutory GST refund rate: Notification 13/2017 prescribes 6% under Section 56 and 9% under its conditional proviso. Establish the applicable interest route, accrual date and current appellate position separately. A merits rejection labelled RFD-03 cannot avoid the hearing safeguard merely because of its form.

Pinpoint: AKHB commentary based on paragraphs 14–20 and 23–24; Notification 15/2021-Central Tax, rule 2(ii)(a); Notification 13/2017-Central Tax, table entries 4–5.

Sources and limitations

Relevant provisions

CGST Act 2017 Section 54(1) and Explanation (2)(h); CGST Rules 2017 Rules 89, 90(2)–(4) and 92(3); Section 108 raised in the respondents' maintainability argument. Contextual interest check: Section 56 and Notification 13/2017-Central Tax. Later rule context: Notification 15/2021-Central Tax.

Statutory note

Although the respondents are Jammu and Kashmir tax authorities, the judgment expressly applies the Central Act and Rules. It does not allocate the refund among CGST, SGST and IGST or separately construe the J&K GST Act; no such allocation is inferred. Explanation (2)(h) uses payment of tax as the relevant date for the residual category. The Court's return-date discussion should remain tied to its record. Rule 92(3) requires a hearing before rejection. Notification 15/2021, dated 18 May 2021, inserted the Rule 90(3) exclusion and states commencement on Gazette publication; Hallmark does not adjudicate retrospective application to these 2020 filings. The 7% award is not explained as a determination of the generally notified Section 56 rate.

Treatment note

Checked 12 October 2026. Bounded party-name, case-number, citation and date searches of official Supreme Court and J&K High Court domains did not establish a later appellate or review order concerning this decision. The archived official order-list response identifies this judgment but is not a complete appellate docket. Current stay, appeal and enforcement status remain unverified. This is not an exhaustive citator review or a finding that no appeal exists; verify current orders before reliance.

Scope of source review

All 12 physical judgment pages fully read and individually visually inspected. Relevant Act pages 89, 94–95, Rules pages 103–104 and 106, Notification 15/2021 page 1, the complete one-page Notification 13/2017, and Circular 125/2019 pages 4–5 were separately read and visually checked. Supplementary compilations were not reviewed in full.

Source notes

The original begins with a UTF-8 BOM before its PDF header; exact bytes and hash are preserved. The right-edge neutral-citation stamp is clipped in the original rendering, but the complete citation, including -DB, is verified in its text/content stream. Paragraph 16 has an isolated 28.03.2020 reference; the surrounding chronology repeatedly identifies the follow-up as 28.09.2020. The judgment's Section 54(14), explanation 2(h) reference is described here as Explanation (2)(h) to Section 54. A fresh official-link request on 12 October 2026 returned an HTML order-unavailable response, not a replacement judgment; the complete same-day archived official download remains the source. Cryptographic signature validation was not performed.

Primary source

Source description: Complete official eCourts judgment, downloaded on 12 October 2026; archived original preserved byte-for-byte, including its leading UTF-8 BOM.

Official source: [Open source document](#)

Source pages: 12

Judgment author: Tashi Rabstan, Acting Chief Justice

Outcome type: final high court merits

Additional source

CGST Act, CBIC compilation as at 1 January 2022

Official source: [Open source document](#)

Pinpoint: Physical p. 89 (printed p. 88): Section 54(1); physical p. 94 (printed p. 93): Explanation (2)(h) and Section 56; physical p. 95 (printed p. 94): continuation of Section 56. Historical text, not a current complete consolidation.

CGST Rules, official compilation as at 1 June 2021

Official source: [Open source document](#)

Pinpoint: Physical pp. 103–104 (printed pp. 100–101): Rule 90 and inserted proviso; physical p. 106 (printed p. 103): Rule 92(3) and hearing safeguard. Historical compilation, not a claim of complete current consolidation.

Notification 15/2021-Central Tax, 18 May 2021

Official source: [Open source document](#)

Pinpoint: Physical p. 1, rules 1(2) and 2(ii)(a): publication-based commencement and filing-to-deficiency exclusion inserted in Rule 90(3).

Notification 13/2017-Central Tax, 28 June 2017

Official source: [Open source document](#)

Pinpoint: Complete one-page notification, table entries 4–5: 6% for Section 56 and 9% for its proviso, effective 1 July 2017.

Circular 125/44/2019-GST, 18 November 2019

Official source: [Open source document](#)

Pinpoint: Physical pp. 4–5, paragraphs 9–12: original administrative deficiency-memo and refiling guidance. Read subject to the statute, rules and subsequent amendment; the Court discusses the Department's reliance in paragraphs 7 and 20.

CBIC Tax Information Portal, Section 56

Official source: [Open source document](#)

Pinpoint: Section 56 and proviso: separate conditions for ordinary delayed refunds and refunds following an order attaining finality; portal footnote records the 2023 computation-text amendment.

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: 12 October 2026

Reserved date: 27 August 2024