

M/s JVG Technology Private Limited v. Commissioner CGST, Delhi West and Another

Case number: W.P.(C) 5757/2025 with CM APPL. 26284/2025

Citation: 2025:DHC:4367-DB

Decision date: 23 May 2025

Section 54(11) opinion alone could not defeat the operative appellate refund order in the circumstances

Court: Delhi High Court

Bench: Hon'ble Ms. Justice Prathiba M. Singh and Hon'ble Mr. Justice Rajneesh Kumar Gupta

Decision stage: Final High Court refund-enforcement decision; refund processing expressly subject to decision in any departmental appeal against the appellate order. Actual implementation and comprehensive appellate finality are not established.

01 Facts of case and issues

JVG, a mobile-phone exporter, sought Rs. 5,00,98,287 in unutilised input-tax-credit refunds. Its RFD-01 applications, filed on 29 October and 26 November 2022, claimed Rs. 2,03,00,339 for September 2022 and Rs. 2,97,97,948 for October 2022. After two show-cause notices dated 29 May 2023 and rejection of the claims, the appellate authority allowed its appeals on 11 December 2023.

The narrative dates rejection to 26 June 2023, whereas the appellate extract identifies both rejection orders as dated 30 June 2023; that discrepancy remains unresolved. Repeated representations did not secure payment. The Department relied on a Section 54(11) order withholding further processing and sanction of the consequential application dated 29 December 2023, alleging revenue prejudice from malfeasance or fraud. JVG invoked Articles 226/227, seeking implementation and Section 56 interest.

Pinpoint: Paragraphs 2–6, physical pp. 1–3; refund amounts and filing dates: paragraph 4, p. 2; departmental withholding extract: paragraph 6, pp. 2–3.

02 Discussion by Hon'ble Court

Applying Shalender Kumar, the Court held that the Department's Section 54(11) opinion could not, in these circumstances, independently justify withholding without a challenge to the appellate order. The statutory text reproduced through that authority also recognises pending other proceedings under the Act, alongside the Commissioner's requisite revenue-prejudice opinion concerning malfeasance or fraud and an opportunity of hearing.

The issue was enforcement of the existing appellate refund entitlement. The High Court did not independently adjudicate the alleged fraud or prescribe a universal test for proving export transactions. The lengthy G.S. Industries extract within the Shalender quotation concerns that earlier taxpayer's facts and orders. Its findings about business existence, brass inputs and absence of a stay must not be presented as independent findings about JVG. Reproducing the Department's allegation of malfeasance or fraud also does not turn that allegation into an independent judicial finding against this taxpayer.

02 Discussion by Hon'ble Court

Pinpoint: Actual paragraphs 7–8, physical pp. 3–6. Paragraph 7 reproduces Shalender Kumar paragraphs 12–17, with a nested G.S. Industries extract at pp. 4–5; actual JVG reasoning resumes at paragraph 8, p. 6.

03 Judicial decision and operative relief

The Court directed release of the refund with statutory interest and gave JVG liberty to apply if the amount was not credited by 10 July 2025. Refund processing remained subject to the decision in any departmental appeal against the appellate order. The petition and pending applications were disposed of. No interest rate or numerical interest calculation was fixed.

Pinpoint: Actual paragraphs 8–10, physical p. 6. The liberty-to-apply date is in paragraph 8; the appeal reservation is paragraph 9.

04 In favour of

Taxpayer, on enforcement of its appellate refund entitlement with statutory interest, subject to appellate outcome.

The relief was a final refund-enforcement direction, not a remand. The 10 July date governs express liberty to return to Court; the two-month period appearing earlier belongs to quoted Shalender Kumar.

Pinpoint: Actual paragraphs 8–10, p. 6, distinguished from quoted Shalender Kumar paragraph 16 on the same page.

05 AKHB REVIEW POINT

AKHB analysis: Retain both original refund applications, the appellate decision, the consequential filing, representations and the complete withholding order. Reconcile the conflicting June 2023 rejection dates against the original orders before advising on procedural chronology. Calculate lawful interest separately and verify actual credit rather than treating disposal as proof of payment.

Check precisely which proceedings were pending when withholding occurred, what material supported the Commissioner's opinion, and whether hearing requirements were met. The separate later Devi Electronics decision recognises withholding founded on an existing investigation and independently supported statutory opinion. Accordingly, absence of a filed appeal alone is not a universal answer to Section 54(11). Verify subsequent orders before seeking enforcement or advising on recovery exposure.

Pinpoint: AKHB commentary based on actual paragraphs 2–10; separate later contextual authority: Devi Electronics paragraphs 13–17, 25–27 and 29–32. These practical checks are not additional JVG directions.

Sources and limitations

Relevant provisions

Constitution of India Articles 226 and 227 (jurisdiction invoked); CGST Act 2017 Section 54(3), first proviso clause (i) (refund route), Section 54(11) (withholding), Section 56 (delayed-refund interest), and Section 107(12) (mentioned in the reproduced appellate disposal).

Statutory note

Section 54(3), first proviso clause (i), concerns zero-rated supplies without payment of tax; JVG identifies that unutilised-ITC route in paragraph 3. Section 54(11) has an alternative pending-other-proceedings limb and requires the Commissioner's opinion of likely revenue prejudice on account of malfeasance or fraud after an opportunity of hearing. It is not a general administrative power to reverse an appellate order. Section 56 appears in the prayer and quoted authority; actual paragraph 8 directs statutory interest without specifying rate, commencement or calculation. Section 107(12) is cited in the appellate extract, not separately construed by this Bench; its text concerns a written appellate order identifying points, decision and reasons. Articles 226/227 are the invoked jurisdiction, not separately analysed constitutional holdings. The targeted 2022 CBIC compilation is a historical statutory cross-check, not a complete current-law certification.

Treatment note

Checked 13 October 2026. The official Delhi High Court case-number portal returned two orders in W.P.(C) 5757/2025, dated 2 and 23 May 2025, and displayed DISPOSED with no next date. No later order was returned in that case history. Official party-name searches for JVG TECHNOLOGY across filing years 2023–2026 returned this writ and earlier W.P.(C) 4371/2024. The latter was withdrawn on 7 January 2025 with rights reserved to challenge a subsequent Section 54(11) order; it is prior procedural history, not a later reversal of this May judgment. No 2026 match was returned for that search string. Targeted official-domain searches did not identify a later JVG appeal, review, implementation or contempt order; these searches do not establish that none exists. Actual payment and GSTAT or Supreme Court appeal status were not independently cleared. Devi Electronics, 1 October 2026, is separate later contextual authority, not identified direct treatment of JVG: paragraphs 14–17 and 25–27 recognise the pending-other-proceedings/investigation basis with the requisite Commissioner opinion and hearing. It expressly distinguishes Alex and other cases, not JVG, and preserves disputed merits for the GSTAT. This bounded review is not an exhaustive citator or certification of finality.

Scope of source review

All six JVG original pages, including the entire nested quotation, fully read and individually viewed. Targeted historical statutory passages were read and viewed on physical pp. 89, 92, 94–95 and 133 of the official CBIC CGST compilation as at 1 January 2022. Section 107(12) was additionally checked in official CBIC indexed text; direct page opening failed. Devi Electronics review was limited to identity and relevant interpretation/disposition passages: physical pp. 1, 10–11 and 18–20 were individually viewed. No full twenty-page Devi review or full statutory-compilation review is claimed. The complete one-page orders dated 21 March 2024 and 7 January 2025 in W.P.(C) 4371/2024 and 2 May 2025 in W.P.(C) 5757/2025 were read and individually viewed. The other two orders in the earlier writ were listed but not downloaded or substantively reviewed.

Source notes

The image-only neutral citation 2025:DHC:4367-DB was read on the original page artwork and confirmed by the official case portal. The decision is 23 May 2025; signature artwork is dated 27 May 2025.

Paragraph 4 prose gives the rejection date as 26 June 2023, while its quoted appellate extract identifies Orders-in-Original ZH0706230413076 and ZK0706230413132 as dated 30 June 2023. The independent originals were not obtained, so the discrepancy is preserved unresolved. Paragraph 6 describes the Department's case as reversal, but the reproduced instrument withholds processing and sanction; the note does not treat that as an appellate reversal. The instrument's own date is not stated in the extract: 29 December 2023 is the consequential application date. Shalender Kumar paragraphs 12–17 and nested G.S. Industries paragraphs 7–15 are quotations, not JVG paragraph numbering or independently obtained judgments. JVG's operative paragraphs are 8–10. Fresh official bytes match the archived PDF; 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: Prathiba M. Singh, J. (oral judgment)

Outcome type: final high court merits

Additional source

Delhi High Court: earlier JVG writ, W.P.(C) 4371/2024, 7 January 2025

Official source: [Open source document](#)

Pinpoint: Complete one-page order: withdrawal with rights reserved to challenge a subsequently issued Section 54(11) order. Prior procedural history, not an order after the reviewed judgment.

Delhi High Court official case-number order portal

Official source: [Open source document](#)

Pinpoint: W.P.(C) 5757/2025 queried 13 October 2026: two returned orders; DISPOSED, next date NA. Case identity and returned order history only, not exhaustive appellate or payment clearance.

CGST Act, official CBIC compilation as at 1 January 2022

Official source: [Open source document](#)

Pinpoint: Physical p. 89: Section 54(3), proviso clause (i); p. 92: Section 54(11); pp. 94–95: Section 56; p. 133: Section 107(12). Targeted historical check only.

CBIC Tax Information Portal: CGST Section 107

Official source: [Open source document](#)

Pinpoint: Subsection (12), official indexed text checked; direct page opening failed.

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 13–17, pp. 10–11, and 25–32, pp. 17–20. Separate later contextual authority, not identified direct treatment or reversal of JVG; disputed merits left open for GSTAT.

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.

General disclaimer: For professional information only; not legal advice. Read the full judgment and applicable law, verify current appellate orders and obtain case-specific professional advice before acting.

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Source checked: 13 October 2026