

M/s Kanika Exports v. Union of India and Others; M/s Malik Seasoning and Spices Private Limited v. Commissioner of Goods and Service Tax

Case number: W.P.(C) 12512/2021 and W.P.(C) 17538/2022

Citation: 2026:DHC:3218-DB

Decision date: 18 April 2026

Refund limitation for historical unutilised ITC claims; prospective operation of amended CGST Act Section 54 Explanation 2(e)

Court: Delhi High Court

Bench: Hon'ble Ms. Justice Prathiba M. Singh and Hon'ble Ms. Justice Shail Jain

Decision stage: Final determination of the limitation issue; rejection orders set aside and refund applications remitted for merits processing.

01 Facts of case and issues

Kanika Exports exported readymade garments without payment of tax. On 29 March 2020 it sought refund of Rs.21,88,802 in unutilised ITC for July 2017–March 2018. Its exports had occurred on 6 October 2017 and 20 March 2018. The authorities calculated two years from those export dates under CGST Act Section 54 Explanation 2(a), rejecting the claim and its appeal.

Malik Seasoning and Spices sought inverted-duty-structure ITC refunds of Rs.6,61,234 for July 2017–March 2018 and Rs.17,46,013 for April 2018–March 2019, in applications filed on 28 and 30 March 2021 respectively. The authorities applied amended Explanation 2(e), using return due dates, and rejected the claims as late. The common questions were which relevant-date clause applied and whether the amendment effective 1 February 2019 could govern earlier transactions merely because applications were filed later.

Pinpoint: Paragraphs 3–20, physical pp. 2–9; issues at paragraph 57, physical pp. 21–22.

02 Discussion by Hon'ble Court

The Court held that the applicable provision was the one in force when the transaction occurred. The later amendment could not curtail the limitation period attached to an accrued refund right. It agreed with the prospective approach described in Babasaheb Keda Shetkari Sahakari Soot Girni and Bharat Oil Traders. Kanika's exports preceded 1 February 2019, so unamended Explanation 2(e) applied despite its later application. The Court also applied the unamended provision to Malik's claims.

For Kanika, the Bench distinguished a refund of tax paid in respect of exports under Explanation 2(a) from a refund of unutilised ITC under Section 54(3). In the historical scheme before it, unamended Explanation 2(e) was the specific provision for the latter and used the financial-year end. The existence of exports alone did not displace it. ITC must satisfy the statutory availment conditions, appear in the electronic credit ledger and remain unutilised; the Court considered the relationship between these requirements, returns and refund limitation.

02 Discussion by Hon'ble Court

The Bench distinguished Sethi Sons and Tulip Nilgiris because Explanation 2(e) had not been pressed there, and Nitrex Chemicals because it concerned refund of IGST paid on exports. Those are this judgment's descriptions of the authorities. Paragraph 101's Section 16(5) illustration supports the reasoning; it is not a separate order reopening every refund deadline. Malik's 2018–19 claim spans the amendment date, but the judgment applies the old clause without a month-wise split. The note preserves that result without treating every transaction in that year as pre-amendment.

Pinpoint: Own reasoning at paragraphs 87–104, physical pp. 37–42. Earlier authorities surveyed at paragraphs 70–81, physical pp. 29–36. Malik conclusion at paragraphs 92 and 106.

03 Judicial decision and operative relief

For Kanika's application, the relevant date was the financial-year end under unamended Explanation 2(e). For Malik's inverted-duty-structure claims, the Court likewise applied the provision before amendment. In both writs, the impugned orders rejecting the applications as time-barred were set aside.

The Department was directed to process the applications on their merits and pass appropriate orders according to law within three months from 18 April 2026. Both petitions and pending applications were disposed of. This was not an order to pay the claimed amounts within three months: ITC eligibility, refund computation and other merits requirements remained for determination. No interest award was made.

Pinpoint: Paragraphs 105–109, physical pp. 42–43.

04 In favour of

Both taxpayers on limitation, with the rejection orders set aside. Refund entitlement and amounts remained subject to lawful merits examination; there was no final quantified refund award.

A substantive historical limitation ruling followed by remittal for merits processing. The three-month direction has elapsed by the checked date, but no subsequent processing, payment or default was verified in this review.

Pinpoint: Paragraphs 107–109, physical pp. 42–43; later-status limits below.

05 AKHB REVIEW POINT

AKHB analysis: Identify the precise refund category before calculating limitation: tax paid on exports and unutilised ITC are distinct in this reasoning. Preserve the transaction period, applicable statutory version, filing acknowledgements, return dates and electronic credit ledger. For a period crossing 1 February 2019, examine the actual transactions and source conclusion rather than assuming that the filing date or financial-year label decides everything.

05 AKHB REVIEW POINT

Historical pandemic exclusions must be checked separately against the actual instrument. Preserve an independent calculation instead of relying on counsel's summarised dates. This judgment does not establish that all present-day export-ITC refunds use financial-year end, that ITC availment automatically extends every refund deadline, or that success on limitation proves eligibility. On remittal, prepare the underlying refund evidence and obtain the subsequent order before describing any amount as sanctioned or paid.

Pinpoint: AKHB commentary based on paragraphs 57–68 and 87–108; recommendations are distinct from the Court's holding.

Sources and limitations

Relevant provisions

CGST Act 2017: Section 54(1), Section 54(3), Explanation 1 and Explanation 2, particularly clauses (a) and (e); Section 39 supplies the return-date reference in amended clause (e). CGST Act Sections 16 and 17 appear in the ITC reasoning, with Section 16(5) used as an illustration. IGST Act 2017: Section 16 on zero-rated supplies. The CGST (Amendment) Act 2018 and Notification No. 02/2019–Central Tax concern the clause (e) amendment and commencement. Notification No. 13/2022–Central Tax clause (iii) is separately checked refund-limitation context.

Statutory note

Checked 13 October 2026. The retained official CBIC compilation as at 1 January 2022, physical pp. 89–94, confirms Section 54's two-year framework, Section 54(3)'s separate categories, the export-departure wording of Explanation 2(a), amended Explanation 2(e), and the footnote preserving the old financial-year-end wording and 1 February 2019 commencement. The two-year period itself was not removed by this judgment. The compilation is historical, not a complete present-law audit.

Notification No. 13/2022–Central Tax, clause (iii), excludes 1 March 2020–28 February 2022 in computing limitation for applications under CGST Act Sections 54 and 55; paragraph 2 gives retrospective effect from 1 March 2020. This targeted verification is supplementary context. It should not be replaced by the different aggregate exclusion dates recited in counsel's submission at paragraph 38.

The official Circular No. 237/31/2024-GST, paragraph 1.2, reproduces CGST Act Section 16(5): the specified earlier-year ITC is linked to a Section 39 return filed up to 30 November 2021. The provision concerns ITC availment. The circular also reproduces Finance (No. 2) Act 2024 Section 150's separate restriction on refunds of tax paid or ITC reversed on account of that retrospective amendment. These supplementary provisions do not convert the judgment's limitation relief into automatic refund entitlement. Targeted verification only; no exhaustive rules, notification or later-amendment audit is claimed.

Treatment note

Checked 13 October 2026. A fresh download from the official Delhi High Court URL returned the complete 43-page judgment with exactly the retained SHA-256 hash. Bounded searches using both parties, both writ numbers and neutral citation 2026:DHC:3218-DB, with review, stay, appeal and Supreme Court terms, including official Delhi High Court and Supreme Court domains, did not verify a direct later stay, reversal

or review modification. Search results included the original judgment, earlier cause lists and secondary summaries; none establishes post-judgment implementation.

No comprehensive Supreme Court registry or citator search is claimed. The complete primary texts and appellate histories of the precedents discussed by the Bench were not independently reviewed here; their treatment is reported only as stated in this judgment. Departmental merits orders, actual refund payment and compliance with the three-month direction remain unverified.

Scope of source review

All 43 original physical pages were fully read and individually visually inspected. This includes the refund table, administrative orders, submissions, nested judicial quotations, the Bench's own reasoning and operative directions. The neutral citation is visible in the page artwork but missing from ordinary extracted text. Supplementary statutory checks are limited to the identified provisions and pages.

Source notes

Reserved on 20 December 2025; pronounced, uploaded and digitally signed on 18 April 2026. The source is one common judgment disposing two writs. Paragraph 15 describes Malik's refund orders as dated 30 June 2021, whereas the appellate quotation at physical p. 9 identifies rejection orders dated 1 July 2021; the underlying administrative originals were not obtained to reconcile this. Paragraph 64(i)'s loose reference to loading must be read with the exact departure wording reproduced at physical p. 24. Malik's 2018–19 claim straddles 1 February 2019, yet paragraphs 92 and 106 apply the unamended clause without monthly bifurcation. The note does not silently rewrite these features. Original source bytes are preserved; cryptographic signature validation is not claimed.

Primary source

Source description: Complete official 43-page Delhi High Court common judgment; fresh official PDF is byte-identical to the retained original.

Official source: [Open source document](#)

Source pages: 43

Judgment author: Prathiba M. Singh, J.

Outcome type: final refund limitation ruling with merits remittal

Additional source

CBIC CGST Act compilation as at 1 January 2022

Official source: [Open source document](#)

Pinpoint: Physical pp. 89–94: Section 54 and relevant-date provisions; historical amendment footnote at p. 94. Targeted text read on 13 October 2026.

Official Notification No. 13/2022–Central Tax dated 5 July 2022

Official source: [Open source document](#)

Pinpoint: One-page notification, clause (iii) and paragraph 2; refund-limitation exclusion checked 13 October 2026.

Official Circular No. 237/31/2024-GST dated 15 October 2024

Official source: [Open source document](#)

Pinpoint: Physical pp. 1–2, paragraphs 1–1.3; reproduced CGST Act Section 16(5) and Finance (No. 2) Act 2024 Section 150. Targeted check on 13 October 2026; the whole circular and later corrigendum are not audited here.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the complete official judgment and identified primary statutory 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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