

MS Devi Electronics Pvt. Ltd. v. Commissioner CGST Delhi South and Others

Case number: W.P.(C) 15557/2024

Citation: 2026:DHC:8551-DB

Decision date: 1 October 2026

A pre-existing investigation and supported Commissioner opinion can justify withholding without a separate judicial stay

Court: Delhi High Court

Bench: Hon'ble Mr. Justice Anil Kshetarpal and Hon'ble Ms. Justice Shail Jain

Decision stage: Final reasoned dismissal of the challenge to Section 54(11) refund withholding. Disputed supply-chain facts and further contentions, including Section 54(11), were expressly left for GSTAT uninfluenced by the judgment's observations. No final fraud or tax-liability determination.

01 Facts of case and issues

Devi Electronics sought implementation of an appellate order allowing five export-related refund claims, aggregating Rs. 3,15,30,605.03 for November 2023 to January 2024. The claims had been rejected principally for incomplete supporting documents. On 19 June 2024 the appellate authority allowed the appeals. The Department authorised a GSTAT challenge and the company filed a consolidated refund application.

After opportunities of hearing, the Commissioner withheld refund on 24 September 2024 under Section 54(11). The taxpayer argued that no appeal was then pending, a later investigation notice could not retrospectively justify withholding, and no judicial stay existed. Revenue relied on an Anti-Evasion Wing investigation already underway from 26 March 2024 and adverse supply-chain material.

Pinpoint: Paragraphs 1–9, physical pp. 1–4; competing submissions: paragraphs 10–11, pp. 4–9; investigation commencement: paragraph 18, pp. 11–12.

02 Discussion by Hon'ble Court

The Court treated Section 54(11) as imposing cumulative requirements: a pending appeal, further proceeding or other relevant proceeding under the Act, together with an independently formed Commissioner opinion, after hearing, that refund would prejudice revenue through malfeasance or fraud. The other-proceedings limb was not confined to a formally instituted appeal. A separate court or tribunal stay was not indispensable.

The Bench distinguished Mandy Enterprises, Alex Tour and Truth Fashion as cases resting on contemplated appeals without the independent material present here. It found that the investigation preceded the withholding order; the later show-cause notice crystallised allegations rather than commencing the inquiry. The Commissioner's multi-level supplier checks, verification reports and other material supported withholding in the circumstances.

That conclusion must be read with the express reservation in paragraphs 29–30. The Court declined to decide disputed supplier genuineness, goods movement and correctness of the administrative findings;

02 Discussion by Hon'ble Court

GSTAT was to consider the further contentions independently. The departmental extracts alleging fictitious suppliers are not a final judicial fraud verdict. Source chronology inconsistencies are separately disclosed below.

Pinpoint: Paragraphs 13–18, pp. 10–12; quoted administrative material and application: paragraphs 19–27, pp. 12–19; express merits reservation: paragraphs 29–30, p. 19.

03 Judicial decision and operative relief

The writ petition was dismissed, leaving the withholding order undisturbed. The Court held that an investigation was already pending and the Commissioner had formed the requisite opinion on contemporaneous material. The taxpayer retained liberty to raise all further issues before GSTAT, uninfluenced by the Court's observations. No refund, interest, quantified costs or payment deadline was awarded.

Pinpoint: Paragraphs 29–32, physical pp. 19–20; continuing Article 226 review recognised in paragraph 28, p. 19.

04 In favour of

Revenue on the lawfulness of withholding in this writ; disputed factual and further statutory contentions remain for GSTAT.

This is a final High Court disposition of the withholding challenge, not an interim order or remand. It does not finally determine refund eligibility, tax liability or the truth of the alleged fraudulent transactions.

Pinpoint: Paragraphs 24–32, physical pp. 17–20.

05 AKHB REVIEW POINT

AKHB analysis: Examine the complete withholding order, hearing record and evidence that the investigation existed when withholding began. Test the Commissioner's reasons and the connection between that proceeding and the refund, rather than treating either a proposed appeal or an unspecified inquiry as automatically sufficient.

Keep the original appellate refund, withholding and GSTAT records distinct. Preserve evidence addressing actual receipt and movement of goods, and check the live tribunal record before advising on entitlement or release. The Court's reservation requires independent adjudication of disputed facts.

Pinpoint: AKHB commentary based on paragraphs 13–15, 18, 24–32 and CGST Sections 54(11) and 16(2)(b); not additional judicial directions.

Sources and limitations

Relevant provisions

CGST Act 2017 Sections 54(11), 16(2)(b), 70 and 112(3); CGST Rules 2017 Rule 111(1), cited in the departmental appeal background; Constitution of India Article 226. Other statutory references in submissions and administrative quotations are not separate holdings.

Statutory note

Section 54(11) requires the statutory pending-proceeding basis, a Commissioner opinion concerning revenue prejudice through malfeasance or fraud, and an opportunity of hearing. The independent-proceedings limb does not dispense with those safeguards. Section 16(2)(b) concerns receipt of goods or services, subject to its statutory explanation; a disputed supplier's status alone is not substituted here for proof of every eligibility condition. The Section 16(2) passage reproduced from the Commissioner's order is not a complete current consolidation: it omits clauses (aa) and (ba) and uses older explanation/proviso wording. India Code records clause (aa) effective 1 January 2022 and clause (ba) effective 1 October 2022, with further amendments. This note relies on the Court's identified receipt-of-goods issue, not the quoted passage as an exhaustive current checklist. Section 70 concerns investigative summons. Section 112(3) and Rule 111(1) concern departmental applications to GSTAT; no filing deadline, tribunal jurisdiction or merits result is inferred from the judgment's account. Paragraph 28 preserves Article 226 review notwithstanding the argument about Section 107 appealability.

Treatment note

Checked 13 October 2026. The official Delhi High Court case-number result identified these parties, showed DISPOSED and Next Date NA, and returned nineteen orders dated 8 November 2024 to 1 October 2026. No later order appeared in that exact writ's returned list. Bounded party-name, case-number, neutral-citation and official-domain searches did not identify a later review, stay or Supreme Court disposition affecting this judgment. This is not exhaustive registry or citator clearance. The judgment records a GSTAT appeal and expressly preserves further issues; the live tribunal file, appeal memorandum, present interim orders and ultimate refund entitlement were not independently verified. Earlier Delhi refund-enforcement cases are distinguished on the recorded facts, not treated as generally overruled. No actual payment or final fraud finding is established by this review.

Scope of source review

All twenty original judgment pages fully read and individually viewed, including every submission and administrative quotation. Fresh official PDF byte-matched the retained original. The exact writ's official party/status result and nineteen-entry order list were inspected; the eighteen earlier orders were not separately reviewed. Alex Tour's complete six-page extracted text was read, with individual image inspection targeted to physical pp. 1, 5–6 for identity and operative reasoning. Current India Code CGST text was targeted to physical pp. 30, 59, 66 and 92–93 through web extraction; direct local PDF download returned a gateway timeout, so no full-document or statutory page-image review is claimed. Other authorities are described only as treated in Devi unless expressly identified as independently checked.

Source notes

The image-only neutral citation is 2026:DHC:8551-DB; reservation, pronouncement and upload dates are distinct. The source caption prints MS DEVI ELECTRONICS PVT LTD. The Court's operative narrative uses 24 September 2024 for withholding, while paragraph 11.5 records 23/24 September. Paragraph 10.5 gives the SCN date as 24 August 2026, but paragraphs 18 and 27 use 21 August. Paragraph 19 says the quoted verification reports pre-date or coincide with withholding, yet its extract includes a 24 December 2024

letter and May 2025 correspondence; paragraph 20's broad pre-order summary must not be silently treated as a reconciled chronology. The Court also identifies genuinely earlier investigation and verification material. Paragraphs 7 and 10 discuss a challenge to the appellate refund order, while paragraph 29 calls the pending GSTAT appeal one against the impugned order; the underlying appeal file was not obtained to resolve that description. Reproduced departmental allegations, statutory quotations and Court findings remain distinguished. Cryptographic signature validation was not performed.

Primary source

Source description: Complete twenty-page official Delhi High Court judgment; retained original unchanged and fresh official download byte-matched.

Official source: [Open source document](#)

Source pages: 20

Judgment author: Anil Kshetarpal, J.

Outcome type: final high court dismissal

Additional source

India Code: CGST Act, official compilation as at 11 June 2026

Official source: [Open source document](#)

Pinpoint: Physical p. 30: Section 16(2) and amendment footnotes; p. 59: Section 54(11); p. 66: Section 70; pp. 92–93: Section 112 context, especially (3). Targeted web-extracted text; direct local PDF fetch timed out.

Delhi High Court: Alex Tour and Travel, W.P.(C) 5722/2023, 8 May 2023

Official source: [Open source document](#)

Pinpoint: 2023:DHC:3303-DB; paragraphs 16–26, physical pp. 4–6. Earlier refund-enforcement reasoning; distinguished by Devi paragraphs 16–17. This is not a later appellate reversal.

Delhi High Court official case-number order search

Official source: [Open source document](#)

Pinpoint: W.P.(C) 15557/2024: exact party/status result and nineteen orders ending 1 October 2026; checked 13 October 2026. This does not clear separate GSTAT or Supreme Court proceedings.

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: 13 October 2026

Reserved date: 18 September 2026