

Union of India & Ors. v. VKC Footsteps India Pvt. Ltd.

Case number: Civil Appeal No. 4810 of 2021 and connected civil appeals, with Writ Petition (C) No. 489 of 2021

Citation: (2022) 2 SCC 603

Decision date: 2021-09-13

GST refunds: inverted duty structure, input services and the validity of Rule 89(5)

Court: Supreme Court

Bench: Two-judge Bench: Dr Dhananjaya Y Chandrachud and M. R. Shah, JJ.

Decision stage: Final judgment

01 Facts

The batch resolved conflicting Gujarat and Madras High Court decisions about refund of accumulated GST credit under an inverted duty structure. In the lead footwear dispute, counsel recorded that outward footwear supplies attracted 5% GST, while many purchased goods and services attracted 12% or 18%. Synthetic leather and PU Polyol were examples of input goods; job-work and goods-transport-agency services were examples of input services. Credit therefore remained in the electronic credit ledger after payment of output tax. These are the historical facts recorded for the litigation, not a statement of present footwear rates.

Rule 89(5), operative from 1 July 2017, initially drew its Net ITC definition from Rule 89(4), covering credit on inputs and input services. Notification 21/2018-Central Tax dated 18 April 2018 restricted that definition to inputs. Notification 26/2018-Central Tax dated 13 June 2018 gave the substituted rule retrospective effect from 1 July 2017. The lead assessee disputed refusal of service-credit refunds and recovery of refunds previously granted, as recorded in its submissions.

The Gujarat High Court accepted the challenge and required input-service credit to be included in the refund computation. The Madras High Court, on 21 September 2020, upheld the statutory distinction and rejected the challenge. The principal issues were whether clause (ii) of the first proviso to section 54(3) merely identified eligible cases or substantively restricted refundable credit; whether excluding input services violated Article 14 or exceeded delegated power; and whether the formula itself had to be read down because it deducted the whole output-tax liability from credit attributable only to input goods.

Pinpoint: Official judgment, paras 1–10, 13(i)–(x), 14–22 and 95–100; pp. 4–10, 21–60 and 122–126.

02 Court Discussion

1. Credit entitlement and cash refund are distinct. Sections 2(59) and 2(60) separately define input goods and input services; sections 2(62) and 2(63) allow input tax and its credit to embrace both. Sections 16 and 49 permit eligible credit to enter a common ledger and be utilised, but section 49(6) makes refund subject to section 54. A common credit pool does not itself establish an unrestricted cash-refund right.

2. The first proviso restricts the refund. Reading section 54(3) as a whole, together with Explanation (1), the Court distinguished the ability to claim unutilised credit from the statutory circumstances in which a refund can be allowed. Clause (i) concerns zero-rated supplies without payment of tax; clause (ii) concerns accumulation caused by input-goods tax rates exceeding output-supply rates. The latter is a substantive restriction, not simply a threshold after which every kind of accumulated credit becomes refundable. Inputs

takes its meaning from the defined input, which excludes capital goods and does not include input services. The plural form supplies no basis for enlarging that definition. The 2018 departmental circular about credit on multiple input goods could not expand the statute to encompass input services.

3. The constitutional challenge failed. GST neutrality and the avoidance of cascading explain the legislation, but those policy objectives cannot authorise a court to redraw clear statutory limits. Goods and services remain distinguishable constitutional and statutory categories. Parliament has substantial latitude in fiscal classifications, including refunds and concessions, subject to constitutional limits. The Court rejected the Article 14 challenge to the restricted refund rather than treating every person with accumulated credit as an indistinguishable class.

4. Rule 89(5) was within delegated power. Section 164 permits rules implementing the Act even where the particular provision does not use an express prescription formula. Rules must remain consistent with the parent statute. A turnover-based attribution formula was a permissible means of identifying credit referable to inverted-rated supplies, particularly where other supplies were also made. Since section 54(3) itself restricted the refund, defining Net ITC by reference to input goods did not contradict it. The Court declined to sever the input restriction from Explanation (a).

5. The formula had recognised imperfections. Its then-existing second limb deducted the whole output-tax liability from credit attributable to input goods, effectively assuming that input-service credit had not discharged any output tax. The Court accepted that this could reduce the refund in the Revenue's favour. It also recognised that mandating use of all service credit first could tilt the result the other way, and mentioned a possible proportionate statutory assumption. These alternatives were policy possibilities, not an adopted judicial formula.

6. An anomaly did not justify rewriting the rule. The formula was neither ambiguous nor unworkable and was consistent with the limited refund Parliament chose. Fiscal rules are not invalid merely because their practical effects contain inequities. The Court therefore declined the suggested reading down and strongly urged the GST Council to reconsider the formula. Paragraph 113(iii) required the Council to consider paragraphs 104–111 and take a considered view according to law; it did not invalidate the formula or command a particular amendment.

Pinpoint: Official judgment: point 1, paras 35–48; point 2, paras 49–55, 62 and 67–70; point 3, paras 58–62 and 71–81; point 4, paras 82–94; point 5, paras 95–105; point 6, paras 106–113(iii).

03 Decision

The Union of India's appeals against the Gujarat High Court judgment and connected decisions were allowed and the impugned judgment was set aside. The assessee's appeals against the Madras High Court judgment of 21 September 2020 and connected cases were dismissed; the assessee writ petition was also dismissed. The Court affirmed the Madras approach and disapproved the Gujarat approach, leaving the challenged refund restriction and formula intact. There was no order as to costs. The GST Council was required to consider the Court's observations in paragraphs 104–111 so that it could take a considered view in accordance with law. Pending applications were disposed of. No refund was ordered for the assessee and no substitute computation formula was judicially enacted.

Pinpoint: Official judgment, paras 112–114; pp. 138–140. Paragraph 113(i)–(iii) contains the operative directions.

04 In Favour Of

Revenue; qualified by the direction for GST Council consideration of formula anomalies

In favour of the Union of India / Revenue on the substantive statutory and constitutional challenge. The assessee obtained recognition of formula anomalies and a direction that the GST Council consider those observations, but this was not an award of refund, a remand of individual refund claims, or a merits victory for the taxpayers.

Pinpoint: Official judgment, paras 105–107, 111 and 113(i)–(iii).

05 AKHB REVIEW POINT

AKHB REVIEW POINT: For an inverted-duty refund dispute governed by the legal text examined here, separate three questions: whether input tax credit is eligible to be taken, how it may be utilised, and whether it may be refunded in cash. This judgment addressed the third question. It does not extinguish otherwise eligible input-service credit or establish that every outward supplier of services is ineligible for an inverted-duty refund. The restriction concerns the input component from which the refund is calculated, and the statutory conditions still have to be satisfied.

Identify the actual cause of accumulation, the relevant tax and claim periods, the classification of each inward supply, the applicable output rates, and any notified exclusion. Retain a reconciliation separating input goods, input services and capital goods, together with ledger utilisation and refund workings. Accumulation alone does not prove an inverted-rate entitlement. Do not treat general statements about GST neutrality, or the Court's acknowledgement of inequity, as an independent right to a service-credit refund.

The formula assessed in 2021 must not be presented as an unchanged present-day calculator. Notification 14/2022-Central Tax dated 5 July 2022, paragraph 8(d), later modified the output-tax deduction by introducing the ratio of Net ITC to credit availed on inputs and input services. That amendment was separately checked against the official notification. CBIC also issued Circular 181/13/2022-GST on 10 November 2022 addressing application dates. A claim involving those materials requires a separate check of temporal application and subsequent binding judicial treatment. This note does not certify the present status of every later rule, circular or decision.

Keep litigation positions period-specific. The Court ordered consideration by the GST Council, rather than a particular formula or payment outcome. Any current refund demand should therefore be based on the applicable statutory text, facts, limitation rules and binding authorities, not on the Council-reference direction alone.

Pinpoint: Editorial analysis based on official judgment, paras 37–48, 53–55, 69–70, 81–94 and 103–113; later amendment: Notification 14/2022-Central Tax, para 8(d), p. 4; Circular 181/13/2022-GST, issue 1, pp. 1–2.

Sources and limitations

Relevant provisions

CGST Act, 2017: section 54(3), first proviso clause (ii), and Explanation (1) to section 54

CGST Act, 2017: sections 2(52), 2(59), 2(60), 2(62), 2(63), 2(102), 16, 49(6) and 164

CGST Rules, 2017: Rule 89(5), including Explanation (a), as amended in 2018; Rule 89(4) for comparison

Constitution of India: Articles 14, 246A, 279A and 366

Statutory note

Historical statutory basis: section 54(3), first proviso clause (ii), and Rule 89(5) as substituted in 2018 with effect from 1 July 2017. A bounded later-text check confirms that Notification 14/2022-Central Tax dated 5 July 2022, paragraph 8(d), amended the formula. The older formula must not be used without checking the legal text and temporal rules applicable to the particular claim.

Treatment note

Original judgment checked on 12 October 2026. Bounded supplementary verification covers Notification 14/2022-Central Tax and Circular 181/13/2022-GST, not a comprehensive subsequent-treatment or appeal-status audit. No universal assertion of current precedential or computational applicability is made.

Scope of source review

Full signed reportable judgment in Civil Appeal No. 4810 of 2021 and connected matters, official PDF pages 1–140, paragraphs 1–114. Paragraph references use this original PDF numbering.

Source notes

The original judgment paragraph 4 dates the Gujarat High Court decision 24 July 2020, whereas paragraph 113(i) calls it 4 July 2020. This internal discrepancy is disclosed rather than silently corrected; the substantive appeal identity and outcome are clear.

All pinpoints in this note are to paragraphs 1–114 of the signed Supreme Court PDF. Commercially republished versions may use different paragraph numbers.

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Citation verification

Citation: (2022) 2 SCC 603

Source document: [Open source document](#)

Pinpoint: XXX v. State of Kerala & Ors., 2026 INSC 88, para 35(d), footnote 26, official PDF p. 34. Consulted to verify the reported VKC citation only, not as an audit of GST treatment.

Primary source

Source description: Original Supreme Court judgment, 13 September 2021 (140 pages)

Official source: [Open source document](#)

AKHB source PDF: [Open source document](#)

Source page count: 140

Judges: Dr Dhananjaya Y Chandrachud; M. R. Shah

Judgment author: Dr Dhananjaya Y Chandrachud, J.

Outcome classification: Revenue success on merits; policy consideration directed

Outcome type: final

Additional sources

Entry 1

Source: Notification 14/2022-Central Tax, 5 July 2022

Source document: [Open source document](#)

Pinpoint: Para 8(d), p. 4

Entry 2

Source: Circular 181/13/2022-GST, 10 November 2022

Source document: [Open source document](#)

Pinpoint: Issue 1, pp. 1–2; historical administrative position, not certified current law

Entry 3

Source: Official Supreme Court cross-check of the reported citation

Source document: [Open source document](#)

Pinpoint: XXX v. State of Kerala & Ors., 2026 INSC 88, para 35(d), footnote 26, official PDF p. 34. Consulted to verify the reported VKC citation only, not as an audit of GST treatment.

Purpose: Bibliographic verification only; not a subsequent GST treatment audit.

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