

Union of India v. M/s Cummins Technologies India Pvt. Ltd. & Ors. etc.

Case number: Transfer Petitions (Civil) Nos. 1481-1482 of 2021

Citation: Order dated 20 September 2021; no neutral citation printed

Decision date: 2021-09-20

Refusal to transfer section 16(2)(c) constitutional challenges from High Courts

Court: Supreme Court

Bench: N.V. Ramana, C.J.I.; Surya Kant and Hima Kohli, JJ.

Decision stage: Final disposal of transfer petitions; no decision on GST validity or ITC entitlement

Facts

The Union of India sought transfer to the Supreme Court of two writ petitions challenging the constitutional validity of section 16(2)(c) of the CGST Act: Cummins Technologies, W.P. No. 9443 of 2020 before the Madhya Pradesh High Court at Indore, and SPL Infrastructure Private Limited, W.P. No. 7767 of 2020 before the Andhra Pradesh High Court at Amaravati. The Court was informed that 34 other writ petitions raising that challenge were pending across nine High Courts. The immediate question was whether the two identified proceedings should be transferred, rather than whether the statutory condition was valid or a particular taxpayer was entitled to input tax credit.

Pinpoint: Official PDF pages 1-2; unnumbered operative order, especially page 2.

Court Discussion

The Solicitor General relied on the number of pending matters and their substantial financial implications to seek Supreme Court consideration. The Court declined to entertain the transfer petitions because the High Courts were already seized of the cases. It particularly recorded that a counter-affidavit was stated to have been filed in the Madhya Pradesh proceeding. The order favoured adjudication by the High Courts at that stage and supplies no reasoning deciding the constitutional challenge or the merits of any credit claim.

Pinpoint: Official PDF page 2; unnumbered paragraphs describing the transfer request and the Court's reason for declining it.

Decision

The transfer petitions and pending applications were disposed of. The Court requested the Madhya Pradesh High Court, Indore Bench, to decide W.P. No. 9443 of 2020 as early as possible, preferably within two months from communication of the order. The parties remained free to advance their respective arguments there. For other writ petitions pending before other High Courts, parties could bring this order to the relevant court's notice and seek expeditious disposal. The request was not an order allowing those writ petitions or invalidating section 16(2)(c).

Pinpoint: Official PDF page 2, concluding two paragraphs; page 3, entire operative text.

In Favour Of

No transfer for the Union; High Court consideration preserved, with no tax-merits ruling

The Union did not obtain the requested transfer. The constitutional challenges were left for High Court adjudication, with an expedition request and liberty to argue. This is a procedural forum outcome, not a merits victory for either the Revenue or the taxpayers on section 16(2)(c).

Pinpoint: Official PDF pages 2-3.

AKHB REVIEW POINT

AKHB REVIEW POINT: Use this order for its limited transfer and expedition history. It does not establish that section 16(2)(c) is valid or invalid, that credit is automatically available despite supplier default, or that any recovery was stayed. The two-month period was expressed as a preference running from communication of this 2021 order; it is not a fresh deadline or proof of eventual compliance. Before relying on the underlying constitutional proceedings today, obtain the later High Court and Supreme Court records and verify the applicable statutory text and tax period.

Pinpoint: AKBH analysis based on the complete unnumbered order, official PDF pages 1-3.

Sources and limitations

Relevant provisions

CGST Act, 2017, section 16(2)(c): subject of the underlying constitutional challenges

Constitution of India, Articles 139A and 142: invoked for transfer

Statutory note

Section 16(2)(c) is identified only as the provision under constitutional challenge. Articles 139A and 142 explain the transfer request. The Supreme Court did not interpret the credit condition or grant substantive tax relief in this order.

Treatment note

The official order and identifying court records were checked on 12 October 2026. No comprehensive subsequent-treatment check or later outcome of the underlying High Court petitions has been completed. The 2021 numbers of pending writ petitions are historical statements recorded in the order, not a current docket count. This is an AI-assisted, source-based AKBH research note. It does not evidence human legal review and is not a substitute for professional advice on the facts of a particular case.

Scope of source review

All three pages of the official ROP were read and visually checked. The cover gives 20 September 2021; the 22 September digital-processing stamp is not the decision date. The ROP identifies the Chief Justice by office, without spelling the name. The Court's official N.V. Ramana biography records his taking office as CJI on 24 April 2021, and its former-judges list records retirement on 26 August 2022, supporting the bench identification. The underlying High Court petitions and their later outcomes have not been reviewed for this note. No neutral citation is printed.

Primary source

Source description: Supreme Court of India official Record of Proceedings

Official source: [Open source document](#)

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

Judges: N.V. Ramana; Surya Kant; Hima Kohli

Outcome type: final procedural

Additional sources

Entry 1

Source: Supreme Court official biography of Justice N.V. Ramana

Source document: [Open source document](#)

Pinpoint: CJI appointment on 24 April 2021

Entry 2

Source: Supreme Court former Chief Justices and Judges

Source document: [Open source document](#)

Pinpoint: Retirement of N.V. Ramana on 26 August 2022

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the identified sources. No human legal review is claimed.

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