

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. /2026
(@ SLP(C) NO. 13084/2025)

UNION OF INDIA & ANR. APPELLANT(S)

VERSUS

TORRENT POWER LTD. RESPONDENT(S)

O R D E R

Leave granted.

The Union of India and its Assistant Commissioner of Central Goods and Services Tax at Ahmedabad are in appeal, aggrieved by the judgment dated 23.10.2024 passed by the High Court of Gujarat, Ahmedabad, in relation to the refund of ₹19,28,86,868/- (Rupees nineteen crores twenty eight lakhs eighty six thousand eight hundred sixty eight only).

Torrent Power Ltd., the respondent-company, is a generator and distributor of power in the State of Gujarat. It is not in dispute that the respondent-company collected from its consumers the amounts payable towards Integrated Goods and Services Tax, pursuant to Notification No. 10/2017-Integrated Tax (Rate), dated 28.06.2017 issued by the Revenue. The said notification was, however, held to be unconstitutional by the High Court, *vide* the judgment reported

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babita pandey
Date: 2026.02.11
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Reason:

Mohit Minerals Pvt. Ltd. Vs. Union of India¹. The judgment was confirmed by this Court, when the appeals arising therefrom were

¹ (2020) 74 GSTR 134

dismissed by this Court, *vide* the judgment reported in *Union of India vs. Mohit Minerals Private Limited*². The amounts paid under and pursuant to the invalidated notification, therefore, became refundable.

However, the issue presently is as to whether the High Court was justified in coming up with a procedure, not contemplated by the statute, for refund of such amounts to the class of consumers, who purportedly bore the burden of the tax collected from June, 2017, till the notification was set aside in January, 2020.

We may note, in this regard, that Section 54(5) of the Central Goods and Services Act, 2017³, provides that, upon receipt of an application for refund, the officer is to satisfy himself that the whole or part of the amount claimed as refund is actually refundable and if found to be so, he is required to make an order accordingly and the amount so determined is to be credited to the Consumer Welfare Fund, referred to in Section 57 of the CGST Act. It is only by way of exception under Section 54(8) of the CGST Act that the amount found to be refundable is not credited to the aforesaid fund and is paid to the applicant.

Section 54(8)(e) of the CGST Act provides to the effect that, notwithstanding anything contained in Sections 54(5), the refundable amount shall, instead of being credited to the fund, be paid to the applicant, if such amount is relatable to the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any

² (2022) 10 SCC 700

³ For short "CGST Act"

other person.

In the present case, as it is an admitted fact that the incidence of the tax that was collected, pursuant to the Notification dated 28.06.2017, was passed on by the respondent-company to the consumers, the exception envisaged by Section 54(8) (e) did not even apply.

Despite the same, the High Court accepted the offer made by the respondent-company, by way of an affidavit, stating that it would open a separate designated bank account in a scheduled bank and the refunded amount of ₹19,28,86,868/- (Rupees nineteen crores twenty eight lakhs eighty six thousand eight hundred sixty eight only) would be transferred to the said account. The respondent-company undertook that it would not utilize the amount credited in the said account and would offer the same as revenue for the purpose of determination of tariff by the Gujarat Electricity Regulatory Commission under the Electricity Act, 2003.

The intention of the respondent-company was that it would go before the Commission and ask for reduction of the charges to be levied on the consumers, so as to adjust the refunded amount, thereby ensuring that the consumers, who suffered the levy of the tax imposed earlier, would be recompensed. However, we may note that this gargantuan exercise would involve more than a crore of consumers situated in two cities, Ahmedabad and Surat. Further, it would be an equally unworkable exercise for the authorities concerned to verify whether the consumers who actually bore the burden of the levy of tax were the beneficiaries of such refund.

Further, we must also note that this procedure, which was

suggested by the respondent-company and accepted by the High Court by way of the impugned judgment/order, introduces an altogether alien modality for disbursal of a refund, which is not contemplated by Section 54 of the CGST Act and the Rules framed therein.

We are, therefore, of the opinion that the judgment under challenge is not sustainable on facts and in law. The same is, accordingly, set aside.

The respondent-company shall transfer ₹19,28,86,868/- (Rupees nineteen crores twenty eight lakhs eighty six thousand eight hundred sixty eight only) to the authorities concerned so as to be credited to the Consumer Welfare Fund, referred to in Section 57 of the CGST Act. The respondent-company shall complete this exercise within a period of three months from today.

The appeal is allowed in the aforestated terms.

Pending application(s), if any, shall stand disposed of.

.....J.
(SANJAY KUMAR)

.....J.
(K. VINOD CHANDRAN)

NEW DELHI;
FEBRUARY 10, 2026.

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No. 13084/2025

[Arising out of impugned final judgment and order dated 23-10-2024 in SCA No. 1659/2024 passed by the High Court of Gujarat at Ahmedabad]

UNION OF INDIA & ANR.

Petitioner(s)

VERSUS

TORRENT POWER LTD.

Respondent(s)

FOR ADMISSION and I.R. And IA No. 102312/2025 - CONDONATION OF DELAY IN FILING

Date : 10-02-2026 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s)	Mr. S Dwarakanath, A.S.G. Mr. Gurmeet Singh Makker, AOR Mr. Sarthak Karol, Adv. Mr. Digvijay Dam, Adv. Ms. Divya Jyoti Singh, Adv. Mr. Raghav Sharma, Adv. Mr. Rajat Vishnaw, Adv. Mr. S. Vijay Adithya, Adv. Mr. Mudit Bansal, Adv. Mr. Prabhakar Yadav, Adv. Mr. Abhyudey Kabra, Adv.
For Respondent(s)	Mr. V Lakshmikumaran, Adv. Ms. Nitum Jain, Adv. Ms. Neha Choudhary, Adv. Ms. Medha Sinha, Adv. Mr. Swastik Mishra, Adv. Ms. Charanya Lakshmikumaran, AOR

UPON hearing the counsel, the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(BABITA PANDEY)
AR-cum-PS

(PREETI SAXENA)
COURT MASTER (NSH)
(Signed order is placed on the file)