

What's New

Tax Insights



16 January 2026

Refund of pre-deposit for filing appeal governed by section 107 read with section 115 of the CGST Act, and not section 54 of the CGST Act – Supreme Court



In brief

In a recent judgement¹, the Supreme Court held that refund of statutory pre-deposit paid for filing an appeal under section 107 is governed by section 107(6) read with section 115 of the Central Goods and Services Tax Act, 2017 (CGST Act) and not by section 54 of the CGST Act. Previously, Revenue authorities had rejected the taxpayers' refund application citing that it was filed beyond the limitation period prescribed under section 54 of the CGST Act. In this regard, the High Court held in the favour of the taxpayer, granting the refund, while holding that the limitation period under section 54 of the CGST Act was merely directory and not mandatory. The Supreme Court held that the exercise undertaken by the High Court in respect of section 54 of the CGST Act was unnecessary.



In detail

Facts

- The taxpayer received a show cause notice alleging mismatch between Forms GSTR-1 and GSTR-3B for the month of September 2019. Subsequently, an *ex parte* order was issued on 31 August 2021.
- The taxpayer filed an appeal within the prescribed time after making the mandatory pre-deposit of 10% of the disputed tax in terms of section 107(6)(b) of the CGST Act to maintain the appeal.
- Subsequently, the proceedings were dropped. On 11 September 2024, the taxpayer applied for refund of the pre-deposit amount, which was rejected on the ground that the refund application was time barred under section 54(1) of the CGST Act.

Jharkhand High Court's decision

The Jharkhand High Court ruled in the favour of the taxpayer and observed as below.

- The refund of statutory pre-deposit is a vested right of the taxpayer once the appeal is allowed in its favour.
- Treating the word 'may' in section 54(1) of the CGST Act as 'shall' and rejecting the refund as time barred is unreasonable, arbitrary and inconsistent with the scheme of the Limitation Act, 1963 as well as the constitutional mandate of Article 265.

¹ SLP (Civil) Diary No. 56452/2025

- There is no question of unjust enrichment, as the pre-deposit is paid from the taxpayer's own funds and not collected from customers; therefore, there is no policy rationale to forfeit such amounts by applying a restrictive reading of section 54 of the CGST Act.

Supreme Court's decision

The Supreme Court, while departing entirely from the High Court's decision but nevertheless holding in favour of the taxpayer, held as follows –

- The refund under consideration was relatable to section 107(6) read with section 115 of the CGST Act.
- The High Court erred in interpreting section 54 of the CGST Act in that context and granting relief pursuant to such exercise.

Accordingly, the Supreme Court directed the amount of the pre-deposit to be refunded to the taxpayer with interest.

The takeaways

This is a landmark Supreme Court decision in respect of the relevant provisions governing the refund of pre-deposit under the CGST Act. By delinking statutory pre-deposit from section 54 of the CGST Act, the judgment supports the proposition that pre-deposit is a procedural safeguard amount and not a 'tax' in itself.

About PwC

At PwC, our purpose is to build trust in society and solve important problems. We're a network of firms in 149 countries with over 370,000 people who are committed to delivering quality in assurance, advisory and tax services. Find out more and tell us what matters to you by visiting us at www.pwc.com.

PwC refers to the PwC network and/or one or more of its member firms, each of which is a separate legal entity. Please see www.pwc.com/structure for further details.

© 2026 PwC. All rights reserved

Follow us on

[Facebook](#), [LinkedIn](#), [Twitter](#) and [YouTube](#).

Data Classification: DCo (Public)

In this document, PwC refers to PricewaterhouseCoopers Private Limited (a limited liability company in India having Corporate Identity Number or CIN : U74140WB1983PTC036093), which is a member firm of PricewaterhouseCoopers International Limited (PwCIL), each member firm of which is a separate legal entity.

This document does not constitute professional advice. The information in this document has been obtained or derived from sources believed by PricewaterhouseCoopers Private Limited (PwCPL) to be reliable but PwCPL does not represent that this information is accurate or complete. Any opinions or estimates contained in this document represent the judgment of PwCPL at this time and are subject to change without notice. Readers of this publication are advised to seek their own professional advice before taking any course of action or decision, for which they are entirely responsible, based on the contents of this publication. PwCPL neither accepts or assumes any responsibility or liability to any reader of this publication in respect of the information contained within it or for any decisions readers may take or decide not to or fail to take.

© 2026 PricewaterhouseCoopers Private Limited. All rights reserved.

GG/May 2025-M&C 45700