GOODS AND SERVICES TAX APPELLATE TRIBUNAL
PUNE BENCH

APL/PUN/8/2026

M/s KIRLOSKAR BROTHERS LIMITED, PUNE ……Appellant

Versus

THE COMMISSIONER OF STATE TAX, MAHARASHTRA ……Respondent

Quorum:
Hon'ble Shridhar Mahadeo Bhosale, Member (Judicial)
Hon'ble Dr. Nirmal Kumar Soren, Member (Technical)

Counsel for Appellant
Smt Komal Sonthaliya,
Chartered Accountant,
Shri Amit Somani,
Dy. General Manager - Finance

Counsel for Respondent
Shri Prakash Kulkarni,
Dy. Commissioner of GST

FINAL ORDER

Date of Last Hearing: 23.10.2026
Date of Order: 29.10.2026

Per: Shridhar Mahadeo Bhosale, Member (Judicial)

1. The present appeal has been filed under Section 112(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the "CGST Act") and Maharashtra Goods and Services Tax Act, 2017, challenging the legality and propriety of the Order-in-Appeal dated 07.01.2026, passed by the Appellate Authority, Joint Commissioner of State Tax, Pune Division-2, Pune, in First Appeal No. G-429/AD27122500262 2J/2025-26. By the impugned Order-in-Appeal, the Appellate Authority upheld the Refund Rejection Order bearing No. DCST/E-0607/Refund/KBL/2025-26/B-207 dated 06.10.2025, passed by the Adjudicating Authority, Deputy Commissioner of State Tax, Zone–Pune-South-West, whereby the refund claim amounting to ₹91,00,000/- (Rupees Ninety-One Lakh only), comprising ₹45,50,000/- towards Central Goods and Services Tax (CGST) and ₹45,50,000/- towards State Goods and

Services Tax (SGST), was rejected under Section 54 of the CGST Act.

2. M/s. Kirloskar Brothers Limited (hereinafter referred to as the "Appellant"), a registered person holding GSTIN 27AAACK7300E1ZZ, is engaged in the manufacture of canned motor pumps and equipment, as well as the execution of works contract services, among other activities. In February 2011, the Appellant received a contract from the Department of Atomic Energy, Government of India, for the supply of 12 canned motor pumps intended for use in nuclear facilities. The contract was awarded under a single composite arrangement for a total consideration of ₹72,74,00,000/- (Rupees Seventy-Two Crore Seventy-Four Lakh only). Pursuant to the said contract, on 16.03.2018, the Appellant issued Invoice No. 1710012360 for ₹13,00,00,000/- (Rupees Thirteen Crore only) towards the supply of the first canned motor pump. At the time of issuing the invoice, the Appellant charged GST at the rate of 12% (comprising CGST and SGST), amounting to ₹1,56,00,000/-.

3. It is the case of the Appellant that, while supplying the canned motor pump under the aforesaid contract, GST was inadvertently charged at the rate of 12% instead of the applicable concessional rate of 5% under Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017. The Appellant contends that the higher rate was applied inadvertently due to a human error at the time of entering the tax rate in the system. The tax charged at 12% was duly reported and paid through the Appellant's GSTR-3B return for March 2018, filed on 22.04.2018.

4. The aforesaid error came to the Appellant's notice during the financial year 2024–25, when the Department of Atomic Energy issued the final settlement invoice applying GST at the rate of 5% and cross-referencing the original supplies. Upon verification, the Appellant identified that GST had been paid in excess by ₹91,00,000/- (Rupees Ninety-One Lakh only). Accordingly, on 04.07.2025, the Appellant filed an application for refund of the said excess tax in Form GST RFD-01, along with the requisite supporting documents.

5. Thereafter, the Deputy Commissioner of State Tax, Pune, issued a Show Cause Notice in Form GST RFD-08 dated 19.08.2025, calling upon the Appellant to explain the grounds for claiming the refund of the excess tax paid. The Appellant submitted a detailed reply to the said notice, setting out the facts and grounds in support of its refund claim. However, the Deputy Commissioner of State Tax, by Refund Rejection Order in Form GST RFD-06 dated 06.10.2025, bearing Reference No. ZD271025014751R, rejected the refund claim solely on the ground of limitation. The Adjudicating Authority proceeded on the basis that the supply constituted a continuous supply of goods under Section 31(4) of the CGST Act and that the relevant date for computing the limitation period was 22.04.2018, being the date on which the Appellant filed its GSTR-3B return for March 2018. On this basis, the proper officer held that the refund application filed on 04.07.2025 was beyond the prescribed period of limitation.

6. Being aggrieved with Refund Rejection Order, appellant filed an appeal before Appellate Authority (Joint Commissioner of State Tax, Appeal -04, Pune). The appellant before Appellate Authority, raised following grounds to challenge Refund Rejection Order-

(a) The supply is not a "continuous supply of goods" under Section 2(32)

(b) Even if assumed continuous supply is assumed, the refund cannot be denied merely because 2-year period has lapsed.

(c) Relevant date has been wrongly computed.

(d) Refund is admissible-no unjust enrichment.

7. Findings of the First Appellate Authority-The Appellate Authority, after the parties provided an opportunity of being heard and considering the material available on record, did not accept the grounds raised by the Appellant and, by order dated 07.01.2026, upheld the Refund Rejection Order passed by the Deputy Commissioner of State Tax. The Appellate Authority observed that the relevant date for computing the limitation period was 22.04.2018, as determined after considering the invoice, GST returns, submissions made by the Appellant, and the facts and

circumstances of the case. The Appellate Authority further observed that, in terms of Rule 92(3) of the CGST Rules, 2017, a refund claim is liable to be rejected where the prescribed statutory conditions are not fulfilled. It held that statutory authorities do not possess any inherent power to condone a substantial delay in the absence of an express statutory provision authorising such condonation. Since the Appellant had filed the refund application beyond the period prescribed under Section 54 of the CGST Act, 2017, the Appellate Authority concluded that the Proper Officer had rightly rejected the claim and that the rejection was legally sustainable. The Appellate Authority accordingly held that the refund claim was barred by limitation and that the CGST Act, 2017, contained no provision empowering the authorities to condone the delay in filing the application.

8. The Appellate Authority also observed that the invoices, consideration for the transactions, and delivery of the goods involving GST at the rate of 12% had been dealt with by the supplier and the recipient with knowledge of the rate charged. On this basis, it concluded that the amount claimed could not be treated as excess tax paid within the meaning of the applicable statutory provisions. Accordingly, the rejection of the refund claim of ₹91,00,000/- was upheld.

9. Being aggrieved by the order dated 07.01.2026 passed by the Joint Commissioner of State Tax (Appellate Authority), the Appellant has challenged the legality and propriety of the impugned order before this Tribunal on the following grounds:

(i) The First Appellate Authority erred in law in determining the commencement of the limitation period under Section 54 of the Central Goods and Services Tax Act, 2017, without correctly appreciating the legal principles governing refund claims arising from the payment of tax in excess of the rate prescribed under law.

(ii) The impugned order is contrary to the constitutional mandate embodied in Article 265 of the Constitution of India, which prohibits the levy or collection of tax except by authority of law.

(iii) The Appellant relies upon the judgment of the Hon'ble Supreme Court in *Mafatlal Industries Ltd. v. Union of India* in support of its contention that tax collected without authority of law cannot be retained by the State merely on the ground of limitation, subject to the applicable statutory framework and the principles laid down therein.

(iv) The Appellate Authority failed to consider the provisions of Section 54(8) of the CGST Act, 2017, which provide for specified exceptions to the doctrine of unjust enrichment. The Appellant contends that the refund claim ought to have been examined in the light of the applicable statutory exceptions and the relevant material on record concerning the incidence of tax and its ultimate burden.

10. The Respondent, in response to the notice issued in the present proceedings, appeared through its Authorised Representative and filed a written reply. The Respondent contended that the Appellate Authority had rightly determined 22.04.2018 as the relevant date for the purpose of computing the limitation period under Section 54 of the Central Goods and Services Tax Act, 2017. It was further submitted that, since the refund application was filed on 04.07.2025, the claim was barred by limitation and had, therefore, been rightly rejected.

11. Heard the learned Authorised Representatives appearing on behalf of both parties at length. The written submissions filed by the Appellant have also been duly considered, along with the material available on record.

12. The learned Authorised Representative, Smt. Sonthaliya, appearing on behalf of the Appellant, vehemently submitted that the amount in question was paid in excess of the tax legally payable and, therefore, the excess amount could not be regarded as tax lawfully leviable under Section 54 of the CGST Act, 2017, read with Article 265 of the Constitution of India. It was submitted that the collection and retention of such excess amount by the department, being unsupported by the authority of law, could not be justified merely by invoking the limitation prescribed under Section 54 of the CGST Act. On this basis, the learned Authorised

Representative argued that the Appellant's refund claim ought not to be rejected solely on the ground of limitation.

13. In support of the aforesaid submissions, the learned Authorised Representative placed reliance upon the following judgments:

(i) *Rajendra Narayan Mohanty v. CT & GST & Others*, judgment dated 12.02.2026, delivered by the Hon'ble High Court of Orissa.

(ii) *Delhi Metro Rail Corporation v. Additional Commissioner of CGST (Appeal-II)*, judgment dated 18.09.2023, delivered by the Hon'ble High Court of Delhi, reported in (2023) 10 Centax 355 (Del.).

(iii) *M/s. Life Science Pvt. Ltd. v. Union of India*, judgment dated 07.11.2025, delivered by the Hon'ble High Court of Karnataka.

14. The learned Authorised Representative for appellant further submitted that, even if the Respondent places reliance upon the judgment of the Hon'ble Supreme Court in *Mafatlal Industries Ltd. v. Union of India*, (1997) 5 SCC 536, the Hon'ble Supreme Court has recognised the legal distinction concerning claims for refund of amounts collected without authority of law. It was submitted that the exception recognised in the said judgment was subsequently applied by the Hon'ble High Court of Orissa in *Rajendra Narayan Mohanty, supra.*

15. The learned Authorised Representative further submitted that the Appellant had acted with due diligence and in good faith and had filed the refund application promptly upon discovering the excess payment of tax. It was contended that the Appellant's entitlement to seek refund arose upon discovery of the mistake and, accordingly, the relevant date for computing the limitation period ought to be determined with reference to the date on which the mistake was discovered or became reasonably ascertainable, rather than mechanically adopting the date of payment of tax.

16. It was further submitted that the grant of refund would not preclude the department from independently examining the

underlying transaction and initiating appropriate proceedings under Sections 73 or 74 of the CGST Act, 2017, wherever permissible in law. According to the Appellant, the availability of such statutory powers would safeguard the interests of the Revenue, while ensuring that an otherwise legitimate refund claim is not rejected solely on the ground of limitation.

17. Ld. authorized representative, Shri Kulkarni, for respondent submitted that the cases on which appellant relied upon are decide by Hon'ble High Courts under the power vested with them under Art 226 of Constitution of India. He submitted that both authorities below rightly considered the provision of Sec 54 of CGST Act to decide relevant date and period of limitation. He further submitted that no interference is required and appeal deserves to be dismissed.

18. On the facts and circumstances of the case, and having regard to the submissions advanced by both parties, the following issues arise for consideration in the present appeal:

(i) Whether the Proper Officer and the Appellate Authority were justified in determining 22.04.2018 as the relevant date for computing the period of limitation for claiming a refund of the excess tax paid?

(ii) If yes, whether the refund application in FORM GST RFD-01, filed by the Appellant for claiming a refund of the excess tax paid amounting to ₹91,00,000/-, is barred by limitation under Section 54 of the CGST Act, 2017?

(iii) If the refund claim is found to be time-barred, whether the Proper Officer or Appellate Authority under the CGST/MGST Act is empowered to sanction such a refund beyond the prescribed period of limitation?

19. Sub Sec (1) of Sec.54 of CGST Act, state that any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner. Explanation for "relevant date" means-

> (a) in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods-

(i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or

(ii) if the goods are exported by land, the date on which such goods pass the frontier; or

(iii) if the goods are exported by post, the date of despatch of goods by the Post Office concerned to a place outside India;

(b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;

(ba) in case of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services used in such supplies, the due date for furnishing of return under section 39 in respect of such supplies;

(c) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of-

(i) receipt of payment in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India. where the supply of services had been completed prior to the receipt of such payment; or

(ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;

(d) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;

(e) in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;

(f) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;

(g) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and

(h) in any other case, the date of payment of tax.

20. Thus, Section 54 (1) of the act provides that any person claiming refund of any tax and interest paid by him, may make an application in prescribed manner application before the expiry of two years from the relevant date. Sub section (9) of section 54 of the act makes clear that notwithstanding anything to the contrary contained in any order, judgment or other provisions of act or any law, no refund shall be made except in accordance with the provision of section 54 (8) of the Act. This section classifies refund into six categories (a) to (h) and category applicable in present case is (e). It is provided in section 54(8) (e) that refundable amount shall be paid, if such amount is paid by applicant, and if he had not passed on the incidence of such tax to any other person. The refund of excess payment in question is covered in this category, however it is subject to the satisfaction of above referred prescribed condition. Therefore, it is necessary to examine whether this condition i.e. 'he had not passed on the incidence of such tax to any other person', has to be satisfied, to become eligible for refund.

21. Further Rule 89 of The CG ST Rules, 2017 prescribe the procedure and conditions for application for refund of tax, interest, penalty, fees or any other amount. The application shall be accompanied with documents prescribed in Annexure in Form GST RFD-1. The form further seeks detail of statement as per Rule 89(2) (k).

22. The Respondent has not disputed that the Appellant paid GST at the rate of 12% on Invoice No. 1710012360 dated 16.03.2018, issued in respect of the supply of goods made by the Appellant to the Department of Atomic Energy. The Respondent has also not disputed the applicability of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, under which the applicable rate of GST for the said supply, being a supply to a Government Entity, was 5%. Consequently, the Appellant paid GST in excess of the applicable rate, amounting to ₹91,00,000/-, for which the refund application has been filed. Further, the Appellant has placed on record a Certificate dated 30.06.2025 issued by a Chartered Accountant, certifying that the tax in question was paid by the Appellant and that the incidence of such tax had not been passed on to any other person. The said certificate has been relied upon by the

Appellant in support of its claim that the refund would not result in unjust enrichment.

23. In the present case, the tax was duly reported and paid through the GSTR-3B return for the tax period of March 2018, which was filed on 22.04.2018. Accordingly, the relevant date for computing the period of limitation of two years under Section 54(1) of the Act has been reckoned as 22.04.2018.

24. Having regard to the date of payment of tax, the relevant date for computing the period of limitation of two years prescribed under Section 54(1) of the CGST Act, 2017, has been determined as 22.04.2018. The Appellant, however, has vehemently contended that, in cases involving payment of excess tax under a mistake, the right to claim a refund arises only upon discovery of such mistake. The aforesaid contention, however, does not find express support in the Section 54 of the Act, which does not specifically provide for computation of the limitation period from the date of discovery of a mistake in cases of excess payment of tax. Furthermore, the Appellant has not placed on record any judicial precedent in support of its contention, nor has any such precedent been brought to the notice of the Authority. Accordingly, the contention that the limitation period should commence from the date of discovery of the mistake cannot be accepted in the absence of specific provision in statute.

25. The learned Authorised Representative appearing on behalf of the Appellant has, however, advanced a further contention that, once the payment of excess tax by the Appellant and its retention by the department are undisputed, the amount collected in excess of the tax legally payable constitutes tax collected without authority of law. It is submitted that, in view of the legal principles laid down by the Hon’ble Supreme Court in the judgment relied upon by the Appellant, the limitation prescribed under Section 54 of the CGST Act, 2017, should not operate as a bar to the grant of refund in such circumstances. The learned Authorised Representative has further contended that both the authorities below failed to consider and apply the relevant legal principles governing the refund of amounts collected without authority of law, thereby rendering their respective orders erroneous and unsustainable in law.

26. The Appellant has referred to and relied upon the judgment of the Constitution Bench of the Hon'ble Supreme Court of India in *Mafatlal Industries Ltd. v. Union of India*, supra. In the said judgment, the Hon'ble Supreme Court considered, inter alia, the following two questions:

(i) Whether the term "mistake" occurring in Section 72 of the Indian Contract Act, 1872, encompasses both a mistake of law and a mistake of fact; and

(ii) Whether tax paid under a mistake of law is recoverable under Section 72 of the Indian Contract Act, 1872.

27. The Hon'ble Apex Court, in para 41(E) observed as-

> "E) It is not possible to conclude that any and every claim for refund of illegal/unauthorised levy of tax, can be made only in accordance with the provisions of the Act (Rule 11, Section 11B etc., as the case may be), and an action by way of suit or writ petition under Article 226 will not be maintainable under any circumstances. An action by way of suit or a petition under Article 226 of the Constitution is maintainable to assail the levy or order which is illegal, void or unauthorised or without jurisdiction and/or claim refund, in cases covered by propositions No. (1), (3), (4) and (5) in Dulabhai's case, as one passed outside the Act, and ultra vires. Such action will be governed by the general law and the procedure and period of limitation provided by the specific statute will have no application."

28. It is pertinent to note that the learned Authorised Representative appearing on behalf of the Appellant referred to the decision of the Hon'ble Supreme Court in *Mafatlal Industries Ltd*, supra, apprehending that the Respondent might rely upon the said decision in support of its case. However, the Respondent did not place reliance upon the said judgment. Be that as it may, since the Appellant has itself referred to the said decision, it is necessary to examine its applicability to the issue involved in the present proceedings.

29. In *Mafatlal Industries Ltd. supra*, the Hon'ble Supreme Court considered, inter alia, the issue of refund of central excise duty or customs duty paid under a mistake of law, including circumstances in which the levy was subsequently found to be illegal or unconstitutional and the incidence of such duty had been passed on to consumers. The Hon'ble Supreme Court emphasised that claims

for refund of duties must ordinarily be pursued in accordance with the statutory mechanism prescribed under the relevant enactment, including Section 11B of the Central Excise Act, 1944. It was further held that a claim for refund cannot ordinarily be pursued by way of a civil suit in disregard of the statutory scheme. Although the constitutional jurisdiction of the High Courts under Article 226 and of the Supreme Court under Article 32 remains available, the exercise of such jurisdiction does not, by itself, dispense with applicable statutory restrictions.

30. However, in the present case, issue of refund of is whether an amount paid as GST in excess under a mistake of law the rate legally applicable to a transaction can be claimed after expiry of the limitation period prescribed under Section 54 of the CGST Act, 2017. The specific question, therefore, is whether the principles relied upon by the Appellant in the present proceedings support an exception to the statutory limitation prescribed under the GST law, to Proper officer. In our considered opinion, the decision in *Mafatlal Industries Ltd, supra*, would not help the appellant. Thus, the reliance placed by the Appellant on *Mafatlal Industries Ltd.* does not, by itself, advance its contention.

31. In case of Rajendra Mohanty, supra, Hon'ble High Court of Orissa, held that-

> " refund claimed in respect of tax paid erroneously or under mistaken notion cannot be denied solely on the ground of limitation stipulated in Section 54 of the CGST/OGST Act, as the matter falls within the ambit of Article 265 of the Constitution of India, which mandates that no tax shall be levied or collected except by authority of law. The Court held that where tax has been deposited twice under a mistake, the limitation prescribed under Section 54 of the GST Act is inapplicable, and the State cannot retain such amount.

32. In case of Delhi Metro Rail Corporation (supra), Hon'ble High Court of Delhi, held that-

> "The period of limitation for applying for a refund as prescribed under Section 54 of the CGST Act, would not apply where GST is not chargeable and it is established an amount has been deposited under a mistake of law. In this case of Gujarat High Court decided on 22.12.2020, in M/s Cosmol Energy Private Limited v. State of Gujarat (supra) indicates that the issue decided in the said case is similar to the one involved in the present case."

The Hon'ble court had further held that

> " Section 54 of the CGST Act is applicable only for claiming refund of any tax paid under the provisions of the CGST Act and/or the CGST Act. The amount collected by the Revenue without authority of law is not considered as tax collected by them and, therefore, Section 54 is not applicable"

33. The Appellant has placed reliance before Appellate Authority upon the judgment dated 07.11.2025 passed by the Hon'ble Single Bench of the High Court of Karnataka in *M/s.Merck Life Science Pvt. Ltd, supra*. In the said judgment, which disposed of a batch of five writ petitions, the Hon'ble Court held that the period of limitation prescribed under Section 54 of the CGST Act is directory and not mandatory, and accordingly allowed the writ petitions. In one of the said petitions, the issue for consideration concerned the recovery of tax without authority of law, as contemplated under Article 265 of the Constitution of India.

34. The aforesaid judgment dated 07.11.2025 was subsequently challenged by the Commissioner by filing writ appeals before the Hon'ble Division Bench of the High Court of Karnataka. By its judgment dated 17.3.2026 the Hon'ble Division Bench reversed the judgment passed by the learned Single Judge and set aside the findings recorded therein. The judgment of the Hon'ble Division Bench was brought to the notice of the learned Authorised Representative appearing for the Appellant by this Bench on the first date of hearing, with a view to offer the, Appellant an opportunity to make submissions in that regard. Thereafter, the Appellant uploaded its written submissions, wherein reliance was placed upon the judgments referred above.

35. In view of the above, the relevant observations and conclusions recorded by the Hon'ble Division Bench of the High Court of Karnataka in its judgment dated 17.3.2026 in the matter of *Assistant Commissioner of Central Taxes, Bengaluru Versus M/s. Merck Life Science Pvt. Ltd.* are reproduced hereinbelow:

> "9. The entire scheme of the CGST Act,2017 is that of a time-bound enactment. Every compliance by the registered person/taxpayer as well as every action by the proper officer is governed by prescribed timelines. The time limits form the backbone of the Act, and such timelines are required to be applied strictly. If the

timelines are not viewed and enforced strictly, the concept of finality in proceedings cannot be sustained

9.1 An equitable approach is required to be adopted on both sides, namely, the registered person/taxpayer and the proper officer. The Act provides for refund under Section 54, which prescribes a period of two years from the relevant date. The expression "relevant date" is explained in the Explanation to Section 54, with reference to different types of transactions. In residuary cases, the relevant date is the date of payment of tax.

9.4 In the present case, however, it is not necessary for this Court to adjudicate regarding the entitlement to the refund. The Revenue has made a categorical statement, and it is also evident from the stand taken that the entitlement of the assessee to the refund is not in dispute. The refund claim has been denied not on the ground of entitlement, but solely on the ground of limitation.

9.5 The proper officer, while administering the Act, is bound by the provisions enacted therein in their strict sense. There is no discretion vested in the proper officer to entertain a refund claim filed after the expiry of two years, unless specific exceptions are provided enabling such consideration. In the absence of such enabling provisions, the period of two years remains mandatory in so far as the proper officer is concerned.

9.6 Ordinarily, in taxing statutes, certain exceptions are provided conferring jurisdiction on the authorities under the Act to condone the timelines in specified situations or circumstances. However, in response to a specific query of the Court, it has been submitted that no such enabling provision or mechanism is provided under the Act to consider grievances in cases where claims have not been made within the prescribed time, particularly in respect of refund under Section 54, of the Act.

9.7 In the absence of any enabling power either to condone the delay or to treat the period of two years as directory, the only possible interpretation of Section 54, is that the period prescribed therein is mandatory. The mere presence of the word "may", a contended, cannot always be construed as directory; the expression must take its colour as either directory or mandatory depending upon the context in which it is used.

9.8 As analysed above, having regard to the purpose behind prescribing the period of two years, we have no hesitation in holding that the said period must be read as mandatory. If such a construction is not adopted, it would confer unintended discretion upon the proper officer and may also enable a registered person/taxpayer to circumvent the provisions of Section 73 or 74 of the Act, as the case may be.

10.1 There may be instances where, due to genuine or unavoidable reasons beyond the control of the taxpayer, the period prescribed under Section 54, lapses. If no

remedy is made available in such circumstances, the provision may operate with undue harshness and arbitrariness. In the absence of any such enabling provision under the Act, the jurisdiction of this Court under Article 226 of the Constitution of India remains the only available remedy. Merely because the provision under Section 54, is held to be mandatory, it cannot be said that the jurisdiction vested in this Court Article 226 stands excluded or rendered unavailable.

10.4 The bar imposed under Section 54 operates only in relation to the proper officer entertaining a refund claim after the expiry of two years. The said bar cannot be construed as being applicable to the Court while exercising its jurisdiction under Article 226 of the Constitution of India.

10.5 We are therefore of the view that where an application for refund is not filed within the time frame prescribed under Section 54 of the Act, the person claiming refund may invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India. We also declare that the writ jurisdiction would be available for an additional reason, namely that no tax can be levied or collected except by authority of law, as mandated under Article 265 of the Constitution of India.

11.1 If, while considering such a belated refund claim, a situation contemplated under Section 73/74 arises, and the refund claim is made after the time prescribed therein, the proper officer would be disentitled from Section 73/74, even though he may be in possession of valid material. Had the refund claim been filed within the prescribed period of two years, the proper officer would undoubtedly have been entitled to rely upon such material against the taxpayer.

11.2 When delay in claiming refund is condoned, the proper officer must also be enabled to exercise or invoke such other provisions as would have been available had the refund claim been filed within time. If such an enabling principle is not recognised, it may result in entertaining unverifiable refund claims and prevent the proper officer from initiating further action under the Act. In the absence of such enablement in favour of the proper officer, mere condonation of delay in filing a refund claim may encourage belated claims, which may or may not be genuine, while at the same time foreclosing action otherwise permissible under the Act, including Section 73 and 74.

11.3 Adopting such an approach would strike a balance between the interests of the taxpayer and the Revenue. It would also ensure that only genuine refund claims invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India. This view is taken having regard to the broad object of the Act, namely, the levy and collection of tax in accordance with law.

> 11.4 We hold that the taxpayer is entitled to seek condonation of delay in claiming refund by invoking the jurisdiction of this Court under Article 226 of the Constitution of India. The Court may consider such request for condonation of delay on a case- to-case basis and, if found appropriate, direct the proper officer to consider the refund claim in accordance with law.
>
> 11.5 While condoning the delay in filing the refund claim, the Court must ensure that if any consequential action under Section 73 or 74 is required to be invoked and if the limitation prescribed for such action has expired, appropriate extension of time is granted to enable such action.

36. The Hon'ble High Court in para 12 summarised-

> "12. In the light of the above reasoning and discussion, we conclude as under:
>
> (a) The period of two years prescribed under Section 54 of the CGST Act, 2017 is mandatory.
>
> (b) As no remedy is provided under CGST ACT to consider a refund claim under Section 54, if filed belatedly, it is open to any person claiming refund to avail remedy under Article 226 of the Constitution of India.
>
> (c) The condonation of delay ordered by the Court shall be subject to the condition that corresponding extension of time is granted in favour of the proper officer to invoke other applicable provisions, including Section 73 and 74 of the Act, as may be necessary.
>
> (d) If such other remedies were otherwise available had the refund claim been filed within two years under Section 54 of the Act, the same shall continue to remain available.
>
> (e) Once condonation of delay is granted by the Court in filing the refund claim, the claim shall be treated as having been filed within the prescribed period of two years, thereby enabling all consequential benefits to the claimant as well as the exercise of appropriate powers by the proper officer under the Act.
>
> (f) The scope of a writ petition under Article 226 would ordinarily be limited to the question of condonation of delay, and would not ordinarily extend to determination of the refund claim itself, unless the entitlement to the refund is undisputed."

37. Thus, upon consideration of the facts and circumstances of the case and the applicable legal provisions, it is evident that neither the Proper Officer nor the Appellate Authority is empowered under the CGST Act or the MGST Act, to sanction a refund claim filed

beyond the prescribed period of limitation, even if the tax paid exceeds the amount legally payable under the applicable rate of tax.

38. The Appellant has contended that the refund claim is admissible as the incidence of the excess tax paid has not been passed on to the customer or any other person. Section 54(8) of the CGST Act, 2017, provides for specified circumstances in which the amount of refund, notwithstanding the general rule under Section 54(5), is required to be paid directly to the applicant instead of being credited to the Consumer Welfare Fund. The statutory scheme thus distinguishes between the sanction of a refund and the manner in which the sanctioned amount is to be disbursed. However, the applicability of Section 54(8) arises only when a refund is otherwise admissible under the Act. The provision does not independently create a right to refund, nor does it dispense with the statutory conditions governing the admissibility of a refund claim, including the limitation prescribed under Section 54(1). Accordingly, even if the Appellant establishes that the incidence of the excess tax paid has not been passed on to the customer and that the claim is not hit by the principle of unjust enrichment, such circumstance, by itself, cannot overcome the bar of limitation prescribed under Section 54(1). The question of payment of the refund directly to the Appellant under Section 54(8) would arise only if the refund claim is otherwise found admissible in accordance with law.

39. In view of the foregoing discussion and for the reasons stated hereinabove, we find no infirmity in the order passed by the First Appellate Authority warranting interference by this Tribunal in the exercise of its appellate jurisdiction. Accordingly, the impugned order is upheld, and the appeal filed by the Appellant stands dismissed.

O R D E R

(a) Appeal No. APL/PUN/8/2026 stands dismissed.

(b) The Order-in-Appeal dated 07.01.2026, passed by the Appellate Authority, Joint Commissioner of State Tax, Pune Division–2, Pune, in First Appeal No. G-429/ AD271225002622J/2025-26, is hereby upheld.

(Final Order pronounced in the open court on 29.10.2026)

(Dr. Nirmal Kumar Soren)
Member (Technical)

(Shridhar Mahadeo Bhosale)
Member (Judicial)

FORM GST APL-04A

[See rule 113(2)]

Summary of the order and demand after issue of order by the Goods and Services Tax Appellate Tribunal

	Whether remand order	No
	Order Reference No.	ZA270221026000130H
	Date of order	29.10.2026
1.	**GSTIN / Temporary ID / UIN**	27AAACK7300E1ZZ
2.	**Appeal Case Reference No. / Date**	APL/8/PUN/2026 dated 24.07.2026
3.	**Name of the appellant**	M/s Kirloskar Brothers Limited, Pune
4.	**Name of the Respondent**	The Commissioner of State Tax, Maharashtra, Pune
5.	**Order appealed against** **(a) Order Type** **(b) Ref. Number / Date**	(a)Refund (b) Order-in-Appeal No. JC/APP-04/G-429 of 25-26/KIRLOSKAR/25-26/Order No.-282 dated 07.01.2026, passed by the Joint Commissioner of State Tax (Appeal-04), Pune (arising from Refund Rejection Order in FORM GST RFD-06 No. ZD271025014751R dated 06.10.2025, passed by the Deputy Commissioner of State Tax, CANTT_508, Pune)
6.	**Personal Hearing (all hearing dates)**	29/10/2026 23/10/2026 05/10/2026 18/09/2026 08/09/2026 24/08/2026 11/08/2026 28/07/2026
7.	**Status of Order under Appeal**	Order under Appeal is confirmed

8. Order in brief

The Appellant, M/s Kirloskar Brothers Limited, inadvertently paid excess GST of Rs. 91,00,000/- at 12% instead of 5% in March 2018 and filed a refund claim on 04.07.2025 after discovering the mistake. The claim was rejected as time-barred under Section 54 of the CGST Act, 2017, and the First Appellate Authority upheld the rejection on 07.01.2026, holding that the delay could not be condoned. The Appellant challenged the impugned order before the Tribunal, contending that the limitation period under Section 54 was incorrectly determined and that the retention of excess tax violated Article 265 of the Constitution, so that the period of limitation would not apply. This Tribunal held that the Proper Officer and the Appellate Authority have no power to sanction a refund beyond the period of limitation prescribed under Section 54 of the CGST Act, and that the delay cannot be condoned by the tax authorities. Accordingly, the rejection of the refund claim is upheld and Appeal No. APL/8/PUN/2026 stands dismissed.

9. If demand order, then whether demand quantified: No.

10. For other orders and demand orders which are not quantified:

Issues as raised by proper officer	Issues as determined by Appellate/Revisional authority	Order by GST Appellate Tribunal
Determination of the relevant date and the period of limitation under Section 54 of the CGST Act, 2017 (relevant date taken as 22.04.2018; refund claim of Rs. 91,00,000/- rejected as time-barred).	Determination of the relevant date and the period of limitation (relevant date 22.04.2018 under Explanation 2(h) to Section 54; claim barred; no power to condone delay; rejection upheld).	(i) The relevant date was correctly determined as 22.04.2018. (ii) The refund claim of Rs. 91,00,000/- filed on 04.07.2025 is barred by limitation under Section 54 of the CGST Act, 2017. (iii) The Proper Officer and the Appellate Authority have no statutory power to sanction a refund beyond the prescribed period. Rejection upheld; appeal dismissed.

Place: Pune
Date: 29.10.2026

Shridhar Mahadeo Bhosale
Designation: Member (Judicial)
Jurisdiction :Pune

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