IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

WP Nos. 26499 and 17606 of 2026, 44793, 44796 and 44798 of 2025
and
WMP Nos. 18916 of 2026, 49996, 49997 and 50001 of 2025

M/s Wipro Ltd
Represented by Senior Manager
(Indirect Taxation)
Authorised Signatory Mr. Raman Venkat
Sr. No. 602/03, ELCOT SEZ,
Sholinganallur, Chennai 600 119.

..Petitioner in all WPs

Vs

Assistant Commissioner Sholinganallur Division
Office of the Assistant Commissioner of
GST and CE, Sholinganallur Division,
GST South Commissionerate
No 692 MHU Complex, 8th Floor, Nandanam,
Anna Salai, Chennai 600 035

..Respondent in all WPs

WP No. 17606 of 2026:

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records in the file of the Respondent in Refund Rejection order No.52/2026 dated 20.05.2026 and quash the same as illegal, arbitrary, violative of principles of natural justice and to direct the Respondent to grant the refund.

WP No. 17606 of 2026:

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records in the file of the respondent passed Refund Rejection order No.28/2026 dated 27.03.2026 and quash the same as illegal, arbitrary, violative of principles of natural justice and to direct the Respondent to grant the refund.

WP No. 44793 of 2025:

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records in the file of the Respondent passed Refund Rejection order No.22/2023 dated 24.11.2023 and quash the same as illegal, arbitrary, violative of principles of natural justice and to direct the Respondent to grant the refund.

WP No. 44796 of 2025:

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records in the file of the Respondent passed Refund Rejection order No.11/2024 dated 14.03.2024 and quash the same as illegal, arbitrary, violative of principles of natural justice and to direct the Respondent to grant the refund.

WP No. 44798 of 2025:

Petition filed under Article 226 of The Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records in the file of the Respondent passed Refund Rejection order No.12/2024 dated 14.03.2024 and quash the same as illegal, arbitrary, violative of principles of natural justice and to direct the Respondent to grant the refund.

For Petitioner:	Mr.G.Shivdass, Senior Counsel for M/s.Muthuvenkataraman S Ms.Nivithra.S Ms.K.S.Shri Gayathri in all WPs
For Respondent:	Mr.K.S.Ramasamy, Senior Standing Counsel in all WPs

COMMON ORDER

The petitioner is a unit in a Special Economic Zone (SEZ unit) engaged in providing information technology services. The corporate entity has operations spread across multiple geographies. Functioning as an Input Service Distributor, input service credit was apportioned by the Head Office to multiple units, including the SEZ unit. The credit made available to the petitioner was utilised while paying taxes on the export of services. Asserting that the supplies made by the petitioner qualify as zero-rated supplies, the petitioner applied for a refund in relation to multiple assessment periods. These applications were rejected under orders impugned herein.

2. Learned senior counsel for the petitioner referred to the definition of zero-rated supply under Section 16 of the Integrated Goods and Services Tax Act, 2017 (the IGST Act) and contended that export of services falls within the scope of Section 16(1)(a). Adverting to Section 54, he contended that an SEZ unit is entitled to claim a refund if taxes are paid on exports. He also contended that there is no prohibition applicable under GST legislation preventing an SEZ unit from availing of credit, including from an Input Service Distributor. After asserting that such credit was distributed by the Input Service Distributor fully in compliance with Section 20 of the Central Goods and Services Tax Act, 2017 (the CGST Act), he contended that the refund applications were not liable to

be rejected by relying on the proviso to Rule 89(1) of applicable Rules. In particular, he contended that said proviso applies to a case where supplies were made directly to the SEZ unit. Because supplies were routed through the Input Service Distributor and only proportionate credit was received by the SEZ unit, he submits that the application for refund cannot be made in these circumstances either by the third party supplier or by the Input Service Distributor.

3. In support of this contention, learned senior counsel relies on several judgments including the judgment of the Gujarat High Court in *Britannia Industries Ltd. vs. Union of India, 2020 (42) GSTL 3 (Guj) (Britannia)* and the judgment of this Court in *M/s.Wipro Ltd. vs. Assistant Commissioner, W.P.No.10770 of 2021 etc., batch dated 13.12.2024*. He points out that the earlier order of this Court also related to the SEZ unit and that this Court concluded that the petitioner is eligible for a refund.

4. Responding to this contention, learned senior standing counsel submitted, at the outset, that an appeal was filed against the order dated 13.12.2024 in W.P. No.10770 of 2021 and related batch of cases. He adds that said appeals were admitted while admitting that no stay was granted. He contends that the applications for refund were rejected for two reasons. The first reason referred to by him is that SEZ units are entitled to exemption from payment of taxes, including taxes on the sale or purchase of goods. Being entitled to such exemption, he contends that said units cannot avail of input tax credit or apply for a refund. The

second reason mentioned by him is that Rule 89 only enables the supplier of goods or services to an SEZ unit to apply for a refund. Because the applications have been made by the SEZ unit and not the supplier of service, he submits that there is no infirmity in the orders rejecting the refund applications.

5. Relying on the counter affidavit, particularly paragraphs 7 to 12, learned senior standing counsel submits that the petitioner is not entitled to a refund. He also places reliance on the judgment in *M/s. Vaachi International India Private Limited*, *2020 (36) GSTL 538*, *Shyamaraju & Co (India) Pvt. Ltd. vs. Union of India 2010 (256) ELT 193 (Kar.)* and the judgment of *CESTAT Hyderabad in Appeal No.30603 of 2018*. He contends further that it is necessary to provide a declaration under Rule 89(2)(f).

6. The expression ‘zero-rated supply’ is defined in Section 16 of the Integrated Goods and Services Tax Act, 2017 (the IGST Act). Sub-Section (3) thereof enables a registered person making zero-rated supply to claim refund. Section 16 is set out below:

> ***Section 16. Zero rated supply.-***
>
> *(1) "zero rated supply" means any of the following supplies of goods or services or both, namely: -*
>
> *(a) export of goods or services or both; or*

(b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

(2) Subject to the provisions of sub-section (5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.

(3) A registered person making zero-rated supply shall be eligible to claim refund under either of the following options, namely:-

(a) he may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of untilised input tax credit; or

(b) he may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied,

in accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made thereunder.

7. The agreed position is that the petitioner is an SEZ unit engaged in the export of services. The respondent does not dispute that services were exported by the petitioner by making payment of integrated tax, *albeit* after utilising the availed credit. Therefore, the petitioner falls

within the scope of Section 16(3)(b). This leads to the question whether the petitioner is entitled to refund in terms of applicable law. Section 54 of the applicable GST statutes deals with refund of tax. In relevant part, Section 54 reads as under:

Section 54. Refund of tax.-

(1) 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 as may be prescribed:

Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in [such form and] manner as may be prescribed.

(4) The application shall be accompanied by-

(a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and

(b) such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person:

Provided that where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

(6) Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent of the total amount so claimed, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.

8. On examining Section 54, it appears that the petitioner's application for refund falls within the scope of sub-section (1). The procedure pertaining to a refund claim under Section 54 is prescribed in Rule 89 of the CGST Rules. Rule 89, in relevant part, reads as under:

Rule 89. Application for refund of tax, interest, penalty, fees or any other amount.-

(1) Any person, except the persons covered under notification issued under section 55 claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49 or any tax, interest, penalty, fees or any other amount paid by him, other than refund of integrated tax paid on goods exported out of India, may file, subject to the provisions of rule 10B, an application electronically in ***FORM GST RFD-01*** *through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:*

Provided *that in respect of supplies to a Special Economic Zone unit or a Special Economic Zone developer, the application for refund shall be filed by the-*

(a) supplier of goods after such goods have been admitted in full in the Special Economic Zone for authorised operations, as endorsed by the specified officer of the Zone;

(b) supplier of services along with such evidence regarding receipt of services for authorised operations as endorsed by the specified officer of the Zone:

(2) The application under sub-rule (1) shall be accompanied by any of the following documentary evidences in Annexure 1 in ***<u>FORM GST RFD-01</u>, as applicable, to establish that a refund is due to the applicant, namely:-***

(f) a declaration to the effect that tax has not been collected from the Special Economic Zone unit or the

Special Economic Zone developer, in a case where the refund is on account of supply of goods or services or both made to a Special Economic Zone unit or a Special Economic Zone developer;

9. Relying on the proviso to Rule 89(1), learned senior standing counsel contended that the refund application should be filed by the supplier of services and not by the SEZ unit. In the case at hand, input services were received in relation to all the units registered for purposes of applicable GST enactments at the corporate entity level. Functioning as the Input Service Distributor, distribution was made in terms of Section 20 of the CGST Act. These distributions were made on proportionate basis both to non-SEZ units and to the petitioner, which is an SEZ unit. Thereafter, the petitioner has undertaken export of services by utilising the availed credit and by paying taxes. In these circumstances, the supplier is not in a position to apply for refund. This aspect was considered by the Gujarat High Court in *Britannia*. In relevant part, the Gujarat High Court held as under:

21. In facts of the present case, instead of Rule 96 as was applicable in case of M/s.Amit Cotton Industries (supra), Rule 89 would be applicable which is pertaining to refund of the input tax credit. Rule 89 of the CGST Rules provides for procedure for application for refund of tax, interest, penalty, fees and prescribes that in respect of supplies to a SEZ unit, the application for refund has to be *filed by the supplier of goods or services. The contention of the respondents that as the petitioner is not the supplier of the goods and services, the petitioner would not be entitled to file application for refund is not tenable because in facts of the present case input service distributor i.e., ISD as defined under Section 2(61) of the CGST Act is an office of the supplier of goods and services which receives tax invoices issued under Section 31 of the CGST Act towards the receipt of input services and issues a prescribed document for the purpose of distributing the credit of CGST, SGST or IGST paid on such goods or services. Therefore, in facts of the case, it is not possible for a supplier of goods and services to file a refund application to claim the refund of the input tax credit distributed by ISD. Therefore, the stance of the department that the petitioner is not entitled to seek the refund of the ITC paid in connection with goods or services supplied to SEZ unit is not tenable.*

22. This aspect is further fortified by Notification No.28/2012, dated 20th June, 2012 which was in connection with service tax attributable to the services used in more than one unit to be distributed pro rata on the basis of the turnover during the relevant period of the concerned unit to the sum total of the turnover of all the units and similarly, in facts of the present case also, credit of service tax is distributed to all the units by the ISD and therefore, the claim of refund made by the SEZ unit of the petitioner is required to be granted.

23.We are of the opinion that in view of the aforesaid decision in case of M/s.Amit Cotton Industries (supra), the petitioner is entitled to claim refund of the IGST lying in the Electronic Credit Ledger as there is no specific supplier

> *who can claim the refund under the provisions of the CGST Act and the CGST Rules as input tax credit is distributed by the input service distributor.*
>
> *24. For the foregoing reasons, the petition succeeds and is accordingly allowed. The impugned order is quashed and set aside. The respondents are directed to process the claim of refund made by the petitioner for unutilised IGST credit lying in Electronic Credit Leger under Section 54 of the CGST Act, 2017. Such exercise shall be completed within three months from the date of receipt of the writ of this order.*

10. The proviso to Rule 89 should be understood in the context of the definition of zero-rated supply, which embraces supply of goods or services to an SEZ unit. Consequently, if the supply had been made directly to the SEZ unit, such supply would have qualified as a zero-rated supply and, therefore, any taxes paid in relation thereto would have qualified for refund at the instance of such supplier as per the proviso to Rule 89. The obvious intended purpose is that a person effecting a zero-rated supply is eligible for entitlement of refund subject to compliance with conditions and that refund claims are not made both by the supplier and the recipient.

11. In the earlier order of this Court dated 13.12.2024, the Court was concerned with refund applications filed and rejected in relation to services provided by an SEZ unit. In that context, the Court held as under:

25. A reading of Section 16(3)(b) of the IGST Act as it stood during the period in dispute makes it clear that a registered person who makes a "Zero Rated Supply" as defined in Section 2(23) of the IGST Act, 2017 r/w. Section 16 of the said Act is eligible to claim refund of tax paid, in accordance with the provisions of Section 54 of the CGST Act or the rules made thereunder and subject to such conditions, safeguards and procedure as may be prescribed under either of the following two situations:

(a) Where there is a supply goods or services or both under "bond" or "Letter of Undertaking", subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilized input tax credit; or

(b) Where there is a supply of goods or services or both on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied, subject to such conditions, safeguards and procedure as may be prescribed.

26. In the present case, the petitioner is a recipient of certain input services from its own sister concern and its Head Office. Hence, the petitioner is eligible to avail Input Tax Credit (ITC) passed on which was utilized. The supplying units of the petitioner have not availed exemption under Section 16(2) of the IGST Act. Instead, they had paid tax out of the surplus credit and passed on the same to the petitioner. Thus, the petitioner was entitled to avail Input Tax Credit under Section 19 of the CGST Act and was also entitled to the benefit of refund under Section 16(3)(b) of the IGST Act.

27. There is no bar under the provisions of IGST Act which would prohibit the petitioner from claiming refund of Input Tax Credit (ITC) or tax paid merely because the petitioner is a SEZ unit. As a SEZ unit, the petitioner was also required to obtain separate registration in terms of Section 25(5) of the CGST Act. Thus, Input Tax Credit (ITC) which is availed by the petitioner as a SEZ unit could be utilized by it for discharging the tax liability to avail the benefit of refund claim under Section 16(3)(b) of the IGST Act as it stood during the period in dispute r/w. Section 54 of the CGST Act.

12. Although an appeal has been filed against this order, learned senior standing counsel admits that no stay was obtained.

13. Learned senior standing counsel also referred to clause (f) of sub-rule (2) of Rule 89 to contend that a declaration should be obtained from the supplier to the effect that tax was not collected from the SEZ unit. In this case, supplies were not made directly to the SEZ unit and, therefore, the question of collecting taxes from the SEZ unit does not arise. Hence, I conclude that the declaration prescribed in clause (f) of Rule 89 (2) is inapplicable in the present situation.

14. For reasons set out above, except to the limited extent mentioned in the preceding paragraph, I see no reason to deviate from the view taken by this Court in the earlier order dated 13.12.2024.

Therefore, all the impugned orders rejecting the petitioner's refund claims are set aside and the respondent is directed to process such refund claims. This exercise shall be completed within three months from the date of receipt of a copy of this order.

15. With the above observations, these writ petitions are disposed of. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

11.08.2026

Index: Yes/No
Neutral Citation: Yes/No
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To

Assistant Commissioner Sholinganallur Division
Office of the Assistant Commissioner of
GST and CE, Sholinganallur Division,
GST South Commissionerate
No 692 MHU Complex, 8th Floor, Nandanam,
Anna Salai, Chennai 600 035

SENTHILKUMAR RAMAMOORTHY J.

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