

## *Suo motu* extension orders passed by Supreme Court not applicable on interest on delayed refund under GST– Delhi HC

6 September 2022



## Summary

The Delhi High Court (HC) noted that statutory interest gets triggered after the expiry of 60 days from the receipt date of the refund application. Further, the HC ruled that the *suo motu* extensions order passed by the Supreme Court (SC) does not deal with the issue of grant of interest on refund withheld beyond the prescribed period. The HC stated that statutory interest is compensation for the use of money and the department has no right to retain such money beyond the stipulated time. Therefore, the HC held that the petitioner is entitled to the interest.

## Facts of the case

- The petitioner<sup>1</sup> has filed a refund application<sup>2</sup> and received the principal amount of the refund<sup>3</sup> in two tranches. However, statutory interest has not been granted to the petitioner.
- The petitioner contended that the department should pay a refund of statutory interest in accordance with the laws<sup>4</sup>.
- The respondent submitted that due to COVID-19, there was a delay in refund processing and denied the grant of interest to the petitioner. Further, the period for processing of refund was extended by virtue of orders passed by the SC<sup>5</sup>. However, the petitioner submitted that this order would not be applicable in the present case.

- **Interest is compensation for the use of money:** The HC held that the statutory interest is compensation for the use of money. The Revenue authorities cannot retain the money beyond the prescribed period. Thus, the petitioner is entitled to the interest.

## Delhi HC observations and ruling<sup>6</sup>

- **Rulings referred by Revenue are not applicable:** The HC stated that the orders passed by the SC for extension of limitation and the judgment of Madras HC<sup>7</sup> do not deal with the issue of grant of interest on refund withheld beyond the prescribed period.

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<sup>1</sup> M/s Ankush Auto Deals

<sup>2</sup> on 20 July 2021

<sup>3</sup> in month of January 2021 and March 2021

<sup>4</sup> Section 56 of the Central Goods and Services Tax Act, 2017

<sup>5</sup> In *Suo Motu* W.P (C.) 3/2020

<sup>6</sup> W.P.(C) 12233/2021 & CM APPL.4315/2022

<sup>7</sup> W.P (C) 18165/2021, M/s GNC Infra LLP v. Assistant Commissioner (circle)

## Our comments

In the present ruling, the Revenue authorities had considered the judgment of Madras HC in the case of GNC Infra LLP<sup>8</sup> in support of his submission regarding the extended period for processing refund. The Madras HC had held that the benefit of SC order is available w.r.t. filing the refund application. Thus, the Delhi HC stated that the Madras HC had not discussed the issue related to the grant of interest on the refund withheld beyond the prescribed period in this ruling.

Recently, the Central Board of Indirect Taxes and Customs (CBIC) issued a notification<sup>9</sup> wherein the time limit for computation of limitation period for filing refund application<sup>10</sup> has been extended and not for grant of interest on delayed refunds.

The present ruling is welcoming and will aid the assessee in getting interest on a refund processed after the expiry of 60 days from the receipt date of refund application.

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<sup>8</sup> W.P.No.18165 & 18168 of 2021 and WMP.Nos.19386 & 19389 of 2021

<sup>9</sup> Notification No. 13/2022-Central Tax dated 5 July 2022

<sup>10</sup> under section 54 or section 55

# Contact us

To know more, please visit [www.grantthornton.in](http://www.grantthornton.in) or contact any of our offices as mentioned below:

---

## NEW DELHI

National Office,  
Outer Circle,  
L 41, Connaught Circus,  
New Delhi - 110001  
T +91 11 4278 7070

## NEW DELHI

6th Floor, Wordmark 2,  
Atrocity,  
New Delhi - 110037  
T +91 11 4952 7400

## AHMEDABAD

Unit No - 603 B, 6th Floor,  
Brigade International  
Financial Center,  
GIFT City Gandhinagar,  
Ahmedabad - 382355  
T +91 79 6900 2600

## BENGALURU

5th Floor, 65/2, Block A,  
Bagman Trudi,  
Bagmane Tech Park,  
CV Raman Nagar,  
Bengaluru - 560093  
T +91 804 243 0700

---

## CHANDIGARH

B-406A, 4th Floor,  
L&T Elante Office Building,  
Industrial Area Phase I,  
Chandigarh - 160002  
T +91 172 433 8000

## CHENNAI

9th floor, A wing, Prestige  
Polygon, 471 Anna Salai,  
Mylapore Division, Teynampet,  
Chennai - 600035  
T +91 44 4294 0000

## DEHRADUN

Suite No 2211, 2nd Floor,  
Building 2000, Michigan Avenue,  
Doon Express Business Park,  
Subhash Nagar,  
Dehradun - 248002  
T +91 135 264 6500

## GURGAON

21st Floor, DLF Square,  
Jacaranda Marg,  
DLF Phase II,  
Gurgaon - 122002  
T +91 124 462 8000

---

## HYDERABAD

Unit No - 1, 10th Floor,  
My Home Twitza, APIIC,  
Hyderabad Knowledge City,  
Hyderabad - 500081  
T +91 40 6630 8200

## KOCHI

6th Floor, Modayil Centre Point,  
Warriam Road Junction,  
MG Road  
Kochi - 682016  
T +91 484 406 4541

## KOLKATA

16th floor, Ambuja Eco-Centre,  
Plot No. 4, EM Bypass, EM Block,  
Salt-Lake Sector-V, Kolkata,  
West Bengal - 700091  
T +91 33 4444 9300

## MUMBAI

11th Floor, Tower II,  
One International Center,  
SB Marg Prabhadevi (W),  
Mumbai - 400013  
T +91 22 6626 2600

---

## MUMBAI

Kaledonia, 1st Floor,  
C Wing,  
(Opposite J&J Office),  
Sahar Road, Andheri East,  
Mumbai - 400069

## NOIDA

Plot No 19A, 2nd Floor,  
Sector - 16A,  
Noida - 201301  
T +91 120 485 5900

## PUNE

3rd Floor, Unit No 310-312,  
West Wing, Nyati Unitree,  
Nagar Road, Yerwada  
Pune - 411006  
T +91 20 6744 8800

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For more information or for any queries, write to us at [GTBharat@in.gt.com](mailto:GTBharat@in.gt.com)



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