

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 4610 of 2025

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PANILA CHEM LIMITED & ANR.

Versus

STATE OF GUJARAT & ORS.

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Appearance:

KRUTARTH K DESAI(9662) for the Petitioner(s) No. 1,2

MR ABHAY Y DESAI(12861) for the Petitioner(s) No. 1,2

MR TRUPESH KATHIRIYA, AGP for the Respondent(s) No. 1

MR NEEL P LAKHANI(10679) for the Respondent(s) No. 2,3

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CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA

and

HONOURABLE MR. JUSTICE D.N. RAY

Date : 17/04/2025

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

Heard learned advocate Mr. Abhay Y. Desai for the petitioners and learned Assistant Government Pleader Mr. Trupesh Kathiriya for the respondent no.1.

Learned advocate Mr. Desai submitted that Rule 113 of the Central/State Goods and Service Tax Rules, 2017 (For short

"the GST Rules") provides that the appellate order passed under section 107(1) is required to be accompanied by the summary of order in Form GST APL-04. It was submitted that though the appellate order setting aside the order-in-original passed in Form MOV-09 was passed on 07.03.2022, the same was not uploaded on portal and was uploaded only on 03.06.2024 along with Form GST APL 04 as provided under Rule 113 of the GST Rules. It was further pointed out that even Form GST APL 04 is showing incorrect fact under the heading "status of the order". It was pointed out that petitioner immediately on 04.06.2024 filed refund application as provided in section 54(1) read with Explanation (d) to section 54 of the GST Act for the refund as directed by the

appellate order.

It was submitted that however respondent authorities have rejected the refund application on the ground that the appellate order was communicated on 08.03.2022 in person to the authorised tax practitioner/advocate of the petitioner and therefore, refund application was beyond the period of two years as prescribed under section 54(1) of the Act as the relevant date would be date of communication of such appellate order.

It was submitted that the appellant could not have preferred refund application in absence of uploading of the appellate order along with Form GST APL-04 as per Rule 113 of the GST Rules and therefore, there is no delay on part of

the appellant to prefer refund application for the refund of the amount deposited by the appellant in compliance of the order-in-original.

Considering the above submissions, issue notice returnable on 2nd May, 2025

Direct service through email is permitted.

(BHARGAV D. KARIA, J)

(D.N.RAY,J)

RAGHUNATH R NAIR

Original copy of this order has been signed by the Hon'ble Judges.
Digitally signed by: RAGHUNATH RAVINDRANATHAN NAIR(HC00196), PRINCIPAL PRIVATE SECRETARY, at High Court of Gujarat on 22/04/2025 15:19:26