

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition No. 16408/2025

M/s Awl Agri Business Limited, (Formerly M/s Adani Wilmar Limited), Kota, Riico Auto Industries Limited, Jaipur Highway, Silor Road, Bundi, Rajasthan- 323001 Through Its Authorized Signatory Shri Dhruvan Mehta S/o Daxeshbhai Mehta Aged Around 36 Years, R/o E5-91, Orchid Heaven, Applewood Township, Shela, Ahmedabad- 380058.

-----Petitioner

Versus

- 1 The Assistant Commissioner, Central Goods And Services Tax Divsion-I, Kota, Divisional Office, Central Revenue Building, Near Cad Circle, Kota- 324001
- 2 State Of Rajasthan, Through The Finance Secretary (Revenue), Finance Department, Government Of Rajasthan, 1St Floor, Main Building, Government Secretariat, Janpath, Jaipur, Rajasthan- 302005
- 3 The Union Of India, Ministry Of Finance, Department Of Revenue, Room No. 46, North Block, New Delhi- 110001 Through Its Revenue Secretary.
- 4 The Central Board Of Indirect Taxes And Customs, Ministry Of Finance, Department Of Revenue, North Block, New Delhi- 110001 Through Its Chairman.
- 5 The Additional Commissioner (Appeals), Central Goods And Services Tax Commissionerate, Jodhpur, G-105, New Jodhpur Industrial Area, Jodhpur- 342003

-----Respondents

For Petitioner(s)	:	Mr. Sanjay Jhanwar, Senior Advocate assisted by Mr. Aditya Sharma & Mr. Wilson Joy
For Respondent(s)	:	Ms. Mahi Yadav, AAG with Mr. Rohan Mittal & Ms. Chelsi Agarwal Mr. Vedant Agarwal (through V.C.)

HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE BIPIN GUPTA

Judgment / Order

07/05/2026

1. Learned counsel for both the parties are *ad-idem* that the issue raised in the present writ petition stands adjudicated finally by a Division Bench of High Court of Andhra Pradesh at Amaravati in ***Writ Petition Nos.28622, 28632 & 28708 of 2025; M/S. AWL Agri Business Limited Vs. The Joint Commissioner (GST Appeals) & Ors.*** decided on 21.01.2026.

2. Since, both the parties involved in the present writ petition are same as the one involved in the case before the Andhra Pradesh High Court, we need not further deal with the issue and it would suffice to quote the order passed by the High Court of Andhra Pradesh which reads as under:

"4. The learned counsel for the petitioner would draw the attention of this Court to paragraph No. 12 of the order in appeal. The appellate authority, in this paragraph, recorded the submissions of the petitioner that Rule 89(5) was being reconsidered and that the appeals be kept pending till the GST council decides on the matter. It appears that the GST council, in its meeting held on 28/29.06.2022 pursuant to the observations of the Hon'ble Supreme Court in its order, dated 13.09.2021, in Union of India vs. VKC Footsteps India Pvt. Ltd. took cognizance of the anomalies in the formula prescribed under Rule 89(5) and accepted the recommendation of the Law Committee which had suggested an amendment in the formula. The learned counsel for the petitioner would contend that in view of this change, which is clarificatory in nature, it would only be appropriate to remand the matters

back, to the original authority, for applying the modified formula.

5. Smt. N. Santhi Chandra, the learned Standing Counsel would contend that the modification of the formula is not retrospective and the same cannot be relied upon, by the petitioner, inasmuch as both the original orders of rejection and the appellate orders had been passed even before the amendment to the formula. The learned Standing Counsel would also rely upon the Circular No. 181/13/2022-GST, dated 10.11.2022 wherein a clarification was issued by the Principal Commissioner (GST) that the amendment to the formula would only be prospective w.e.f.05.07.2022.

6. Learned counsel for the petitioner has now drawn our attention to the judgment of the Hon'ble High Court of Gujarat in the case of Tirth Agro Technology Pvt. Ltd. Vs. Union of India. In this judgment, the Hon'ble High Court of Gujarat had set aside the said circular to the extent that it clarifies that the amendment to Rule 89(5) is not clarificatory in nature. It is settled law that once a circular is set aside by one High Court, the same would stand set aside for the entire country.

7. In view of the aforesaid facts and submissions, it is clear that the amendment to the formula in Rule 89(5) has to be treated to be clarificatory in nature and consequently would be retrospective. In the present case, though the orders of rejection as well as the appellate order were passed prior to the amendment, the fact remains that the petitioner had continued to agitate his claims in regard to the refund sought by the petitioner.

8. In view of the above, these Writ Petitions are allowed setting aside the orders of rejection dated 09.06.2021, 13.01.2021 and 24.03.2021 passed by the primary authority as well as the appellate orders, dated 25.02.2022 and the applications of the petitioner, for refund, shall be considered by the primary authority afresh and by applying the modified formula in Rule 89(5) of the GST Rules."

3. In view of above, the present writ petition filed by the petitioner is decided *mutatis mutandis*.

4. Pending application(s), if any, stands disposed of.

(BIPIN GUPTA),J

(SANJEEV PRAKASH SHARMA),ACTING CJ