



## Tax alert: Limitation period for refund of GST wrongly collected and paid, to start from date of payment of correct tax

**5 August 2025**

The Patna High Court has clarified that the limitation period of two years for claiming refund of GST wrongly collected and paid to the Government, would start from the date of payment of correct tax and not from the date of payment of wrong tax.

### In a nutshell



In January 2018, the petitioner had wrongly treated certain transactions as intra-state instead of inter-state and paid CGST and SGST as against IGST.



Petitioner paid the correct tax i.e., IGST in March 2023. It filed a refund application in January 2024 which was within 2 years from the date of payment of correct tax.



Department rejected the refund application contending it was filed beyond two years of payment of wrong tax sought to be refunded. A writ petition was filed by the taxpayer against the said order.



Patna High Court has held that relevant date for counting limitation period would start from the date when petitioner deposited the correct tax i.e., IGST and refund was allowed.



Scroll down to read the detailed alert

## Background

- The petitioner<sup>1</sup> duly filed its GST returns (Form GSTR-1, GSTR-3B and GSTR-09) for FY 2017-18 and paid all due taxes according to the returns.
- Later, the petitioner's books of accounts were selected for departmental audit. The audit report observed that the petitioner had short paid IGST, identifying certain transactions to be inter-state transactions which the petitioner had treated as intra-state transactions. The CGST and SGST were wrongly paid in January 2018.
- In view of audit observations, the petitioner paid the correct IGST through DRC-03 in March 2023.
- After payment of correct IGST, the petitioner applied for refund of wrongly paid CGST and SGST in RFD-01 in January 2024.
- Department issued a show cause notice and thereafter an order rejecting the refund application as the limitation period of two years had lapsed from the date of wrongly paid CGST and SGST. Against the said order, the petitioner filed a writ petition before the Patna High Court.

## Observations of the High Court

- Though the impugned order has taken note of the relevant provision of the GST law providing for refund of GST wrongly paid under a particular head (CGST and SGST/ IGST), the same has not been duly considered and appreciated by the department.
- **Circular no. 162/2021-GST dated 25 September 2021** (circular no. 162) which clarifies the position about the application of limitation in such cases has not been taken into consideration by the department.
- The Court opined that in the present case, the relevant date for counting the period of limitation would start from the date when the petitioner had deposited the tax under IGST Act.
- Reference was made to Jharkhand High Court judgement in the case of **Gajraj Vahan (P.) Ltd.**<sup>2</sup> where it was observed that circular no. 162 had extended a beneficial provision for extension of limitation of refund in case of wrong deposit.
- Accordingly, it was held that the petitioner is entitled to get refund of the SGST and CGST amount paid in January 2018, together with interest at the rate of 6% per annum from a date which would begin after three months from the date of filing of the application for refund, till the date of payment.

## Comments

This ruling sets a precedent for similar cases where taxpayers have paid taxes under the wrong head and have sought refunds. It reinforces the interpretation that the limitation period should be calculated from the date of payment of the correct tax.

Overall, the ruling ensures that taxpayers who have paid taxes under the wrong head due to misclassification of transactions are not unfairly penalized by a misinterpretation of the limitation period for refund claims. It also emphasizes adherence to the provisions of the CGST and IGST Acts and the relevant circulars.

---

<sup>1</sup> M/s. Sai teel v. The State of Bihar 2025-VIL-791-PAT

<sup>2</sup> 2023 SCC OnLine Jhar 3929 - 2023-VIL-295-JHR



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see <http://www.deloitte.com/about> to learn more.

Deloitte Asia Pacific Limited is a company limited by guarantee and a member firm of DTTL. Members of Deloitte Asia Pacific Limited and their related entities, each of which is a separate and independent legal entity, provide services from more than 100 cities across the region, including Auckland, Bangkok, Beijing, Bengaluru, Hanoi, Hong Kong, Jakarta, Kuala Lumpur, Manila, Melbourne, Mumbai, New Delhi, Osaka, Seoul, Shanghai, Singapore, Sydney, Taipei and Tokyo.

This communication contains general information only, and none of DTTL, its global network of member firms or their related entities is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication.

© 2025 Deloitte Touche Tohmatsu India LLP. Member of Deloitte Touche Tohmatsu Limited