



JUDGEMENT

Amended Rule 89(5) on Inverted Duty Refund Held Clarificatory and Retrospective by Andhra Pradesh High Court

Issued By:	Andhra Pradesh High Court
In Case Of:	M/s. Awl Agri Business Limited
Order Date:	21st Jan 2026
Order No:	WP No. 28622 of 2025

FACTS & OBSERVATIONS

- The petitioner (AWL Agri Business Ltd., formerly Adani Wilmar) imports edible oil, refines/ packs it, and supplies it domestically; due to an inverted duty structure, it **accumulated ITC and filed refund applications for periods** including Nov 2018, Mar 2019 and Apr 2019 under Section 54.

The adjudicating **authority rejected the refund claims on the premise that Rule 89(5) formula (as it then stood) precluded/limited such refunds**; the **appellate authority also dismissed the appeals** by orders dated 25.02.2022, leading to writ petitions before the High Court.
- During appeal, the **petitioner had specifically highlighted that Rule 89(5) was under reconsideration and sought that matters be kept pending until the GST Council took a view**; the Court noted that the GST Council, after the Supreme Court's decision in VKC Footsteps, considered anomalies and accepted recommendations leading to a modified formula.
- The **department opposed applying the amended formula to earlier periods, arguing the change is not retrospective** and relying on Circular No. 181/13/2022-GST dated 10.11.2022 stating the amendment is prospective w.e.f. 05.07.2022.

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- The **Court** noted the petitioner's reliance on the Gujarat High Court decision in Tirth Agro Technology Pvt. Ltd., which had set aside the said circular to the extent it declared that **the amendment to Rule 89(5) is not clarificatory**; the Court proceeded on the basis that once such circular is set aside, its restrictive clarification cannot be insisted upon.
- On this foundation, the **Court held that the amendment to the formula in Rule 89(5) must be treated as clarificatory in nature and, consequently, retrospective**, even though the rejection orders and appellate orders were passed prior to the amendment.
- The Court recognised that the **taxpayer had consistently pursued the refund entitlement and therefore directed that the claims be reconsidered by applying the modified Rule 89(5) formula**, rather than being denied on the basis of the earlier anomaly.
- Accordingly, the **Court set aside the original rejection orders and appellate orders and remanded the refund applications to be decided afresh** by the primary authority by applying the amended formula.

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