

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)**

MONDAY, THE FIFTH DAY OF JANUARY
TWO THOUSAND AND TWENTY SIX

PRESENT

**THE HONOURABLE THE CHIEF JUSTICE APARESH KUMAR SINGH
AND**

THE HONOURABLE SRI JUSTICE G.M. MOHIUDDIN

WRIT PETITION NO: 35286 OF 2025

Between:

Aurobindo Pharma Limited, Plot No.1, Survey No.83/1, Galaxy Tower, Floor Nos. 22-24, Hyderabad Knowledge City Raidurg Panmaktha, Serilingampally Mandal, Ranga Reddy District, Hyderabad - 500032, Telangana, India Rep by its Authorised Signatory, Mr. T. Deepak.

.....PETITIONER

AND

1. The State of Telangana, Revenue (Commercial Tax) Department Rep by its Secretary, The Dr. B.R Ambedkar Telangana State Secretariat. Khairatabad, Hyderabad- 500022.
2. The Deputy Commissioner (ST) STU-1, Punjagutta Division, Hyderabad.
3. The Appellate Joint Commissioner of State Tax, Punjagutta Division 5th Floor, C.T. Complex, Nampally, Hyderabad.

.....RESPONDENTS

Petition Under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue a writ, order or direction, more appropriately in the nature of a Writ of Certiorari, calling for the records and quashing the order of the 3rd Respondent bearing Order No. ZD3605250092996 dt. 07.05.2025 as being illegal, arbitrary, and violative of the provisions of the Central Goods and Services Tax Act, 2017, the Integrated Goods and Services Tax Act, 2017 and the Goods and Services Tax (Compensation to States) Act, 2017 and Articles 14 and 265 of the Constitution of India, and consequently, direct the Respondents to issue refund of

Cess to the Petitioner of Rs.15,40,203 for the tax period May 2019 made vide ARN. AA360421030376K on 29.04.2021.

I.A.NO:3 OF 2025

Petition Under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the impugned order of the 3rd Respondent bearing Order No. ZD3605250092996 dt. 07.05.2025.

Counsel for the Petitioner : SRI P.S.S.KAILASH NATH

**Counsel for the Respondents : SRI SWAROOP OORILLA, SPECIAL GOVT
PLEADER FOR STATE TAX**

The Court made the following ORDER

IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

The Hon'ble The Chief Justice Sri Aparesh Kumar Singh

and

The Hon'ble Sri Justice G.M.Mohiuddin

Writ Petition No.35286 of 2025

Dated: 05.01.2026

Between:

**Aurobindo Pharma Limited
Rep.by its Authorised Signatory
Mr. T.Deepak**

...Petitioner

and

**The State of Telangana,
Revenue (Commercial Tax) Department
Rep. by its Secretary
Hyderabad and 2 others**

...Respondents

Order:

Heard Mr. Kailashnath P.S.S., learned counsel for the petitioner
and Mr. Swaroop Oorilla, learned Special Government Pleader for State
Tax appearing for the respondents.

2. This Writ Petition has been preferred with the following prayer:

“For the above stated reasons and those that that may be adduced at the time of hearing, it is prayed that this Hon'ble Court may be pleased to issue a writ, order or direction, more appropriately in the nature of a Writ of Certiorari, calling for the records and quashing the order of the 3rd Respondent bearing Order No. ZD3605250092996 dt.07.05.2025 as being illegal, arbitrary and violative of the provisions of the Central Goods and Services Tax Act, 2017, the Integrated Goods and Services Tax Act, 2017 and the Goods and Services Tax (Compensation to States) Act, 2017 and Articles 14 and 265 of the Constitution of India, and consequently, direct the

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Respondents to issue refund of Cess to the Petitioner of Rs.15,40,203/- for the tax period May 2019 made *vide* ARN:AA360421030376K on 29.04.2021, and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

3. Learned counsel for the parties, during the course of hearing, fairly submit that the issue involved in this Writ Petition has already been considered by this Court in W.P.No.2391 of 2023 and batch, *vide* common order dated 10.12.2025, and the said order squarely covers the present Writ Petition as well.

4. The conclusive portion of the said common order dated 10.12.2025, passed in W.P.No.2391 of 2023 and batch, reads as under:

"11. We have heard the learned counsel for the parties and taken note of the material facts and the relevant provisions of the Cess Act, CGST Act and IGST Act and the Rules prescribed thereunder. Without further dilating on the position in law as it has been well laid down in the cases of **Patson Papers Private Limited** (supra) and **Atul Limited** (supra), since the department is inclined to reconsider the matter in the light of the decisions referred to hereinabove, the impugned Order-In-Original and the appellate order are set aside. The matter is remanded to the original authority to take a fresh decision in accordance with law after opportunity of hearing to the petitioner within a period of four (4) months.

These Writ Petitions are accordingly disposed of. There shall be no order as to costs."

5. In view of the consensus arrived at, this Writ Petition is also disposed of in terms of the common order dated 10.12.2025, passed in

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W.P.No.2391 of 2023 and batch. However, there shall be no order as to costs.

Miscellaneous applications pending, if any, shall stand closed.

SD/-K.MADHAVI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The Secretary, Revenue (Commercial Tax) Department, The Dr. B.R Ambedkar Telangana State Secretariat. Khairatabad, State of Telangana at Hyderabad- 500022.
2. The Deputy Commissioner (ST) STU-1, Punjagutta Division, Hyderabad.
3. The Appellate Joint Commissioner of State Tax, Punjagutta Division 5th Floor, C.T. Complex, Nampally, Hyderabad.
4. One CC to SRI P.S.S.KAILASH NATH, Advocate [OPUC]
5. One CC to SRI SWAROOP OORILLA, SPECIAL GOVT PLEADER FOR STATE TAX, Advocate [OPUC]
6. Two CD Copies
(Along with a copy of the common order dated 10-12-2025 passed in WP.No.2391 of 2023 and batch to this order)

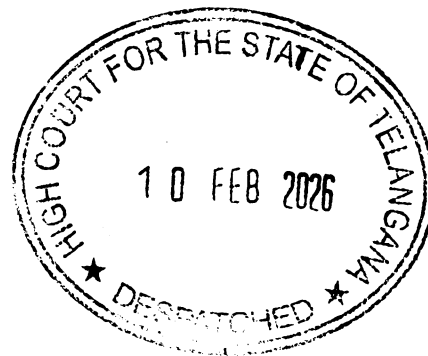
SA
PMK

HIGH COURT

DATED:05/01/2026

ORDER

WP.No.35286 of 2025



**DISPOSING OF THE W.P
WITHOUT COSTS.**

(S) MT
29.1.26

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**THE HON'BLE THE CHIEF JUSTICE SRI APARESH KUMAR SINGH
AND
THE HON'BLE SRI JUSTICE G.M.MOHIUDDIN**

**WRIT PETITION Nos. 2391, 2404, 2411, 2412, 2418, 2438,
2439, 2442, 2445 and 2446 of 2023; 24133, 24244, 24500, 24578,
35222, 35228, 35470, 35895, 36000, 36077, 36078, 36130, 36186
and 37285 of 2025**

DATED : 10.12.2025

Between:

Aurobindo Pharma Limited

... Petitioner

AND

**State of Telangana,
Revenue (Commercial Tax) Department,
Rep by its Secretary,
Secretariat, Hyderabad and two others**

... Respondents

COMMON ORDER:

Sri Kailash Nath P S S, learned counsel for petitioner and Sri Swaroop Oorilla, learned Special Government Pleader for State Tax appears for respondents.

2. Writ Petition No.2391 of 2023 along with analogous Writ Petitions has been filed on behalf of the same petitioner.

3. The claim for refund of tax paid against zero rated supplies for different periods has been rejected by respondent No.2 *vide* impugned orders dated 04.05.2021 in W.P. Nos.

2391, 2404, 2411, 2412, 2418, 2438, 2439, 2442, 2445 and 2446 of 2023; dated 28.10.2024 in W.P. Nos.24133, 35895, 36000, 36077, 36130, 36186 and 37285 of 2025; dated 31.08.2024 in W.P. Nos.24224, 24500, 24578, 35222, 35228, 35470 and 36078 of 2025 which have been confirmed in appeals by respondent No.3 *vide* impugned orders dated 19.08.2022 in W.P. Nos. 2391, 2404, 2411, 2412, 2418, 2438, 2439, 2442, 2445 and 2446 of 2023; dated 07.05.2025 in W.P. Nos.24133, 24224, 24500, 24578, 35222, 35228, 35470, 35895, 36000, 36077, 36078, 36130, 36186 and 37285 of 2025. The relevant details in respect of which the petitioner filed individual Writ Petitions indicating the tax period, the amount of refund claim, the date of Order-In-Original and the date of Order-In-Appeal are furnished in the form of tabulation chart hereunder:

S.No.	Writ Petition	Tax period	Amount of refund (in Rs.)	Date of Order in Original	Date of Order in Appeal
37	WP 37285/2025	Jun-22	2,77,635	28/10/24	07/05/25
38	WP 2391/2023	Jul-18	2,38,936	04/05/21	19/08/22
39	WP 2404/2023	Aug-18	66,82,892	04/05/21	19/08/22
40	WP 2411/2023	Oct-18	39,90,322	04/05/21	19/08/22
41	WP 2412/2023	Sep-18	21,71,962	04/05/21	19/08/22
42	WP 2418/2023	Feb-19	54,50,421	04/05/21	19/08/22
43	WP 2438/2023	Jan-19	5,64,201	04/05/21	19/08/22
44	WP 2439/2023	Apr-19	77,79,256	04/05/21	19/08/22

45	WP 2442/2023	Dec-18	1,59,019	04/05/21	19/08/22
46	WP 2445/2023	Mar-19	2,00,111	04/05/21	19/08/22
47	WP 2446/2023	Nov-18	8,95,282	04/05/21	19/08/22
48	WP 24133/2025	May-20	1,46,541	28/10/24	07/05/25
49	WP 24224/2025	Jan-20	20,05,857	31/08/24	07/05/25
50	WP 24500/2025	Dec-19	28,98,523	31/08/24	07/05/25
51	WP 24578/2025	Nov-19	20,75,532	31/08/24	07/05/25
52	WP 35222/2025	Sep-19	20,11,569	31/08/24	07/05/25
53	WP 35228/2025	Jul-19	15,55,919	31/08/24	07/05/25
54	WP 35470/2025	Apr-20	9,833	31/08/24	07/05/25
55	WP 35895/2025	Mar-22	33,55,637	28/10/24	07/05/25
56	WP 36000/2025	Apr-22	3,86,711	28/10/24	07/05/25
57	WP 36077/2025	May-22	3,53,556	28/10/24	07/05/25
58	WP 36078/2025	Jun-19	13,17,310	31/08/24	07/05/25
59	WP 36130/2025	Feb-22	6,80,574	28/10/24	07/05/25
60	WP 36186/2025	Jul-22	12,94,752	28/10/24	07/05/25

4. The petitioner is engaged in the business of manufacture and supply of pharmaceutical products. It primarily undertakes supplies to Special Economic Zone (SEZ) units and exports also. It is registered under the Goods and Services Tax Act, 2017 (for short 'GST Act'). According to the petitioner, under the Goods and Services Tax (Compensation to States) Act, 2017 (for short 'Cess Act'), a cess is levied under Section 8 of the Cess Act on intra-State or inter-State supplies of such goods or services as specified in column (2) of Schedule to the Cess Act for the purposes of providing compensation to the States for the loss of revenue for a period of five years from the date on which the Central Goods and Services Tax Act, 2017 (for short 'CGST Act'), was brought into force. The Cess

Act provides for manner of determining the shortfall in revenue for the States and the methodology for calculation and release of compensation. In terms of Section 11(2) of the Cess Act, the provisions of the Integrated Goods and Services Tax Act, 2017 (for short 'IGST Act') and the Rules made thereunder apply *mutatis mutandis* to the levy and collection of cess on inter-State supplies of goods or services. The proviso thereto states that the cess on supply of goods or services shall be utilized only towards payment of cess on supply of goods or services leviable under this Section as such the cess paid on inputs can be utilized only for claiming credit for cess on supplies payable, if any, and not as a credit for any other tax including CGST or IGST. Section 9 of the Cess Act provides for furnishing of returns in respect of taxable supply of goods or services or both upon payment of cess in forms prescribed. It also provides for application for refund of such cess in such form as may be prescribed. In terms of Sections 9 and 11 of the Cess Act read with Section 16 of the IGST Act, direct export of goods and supplies made to SEZ units would qualify to be zero rated supplies under the Cess Act also.

Therefore, the provisions relating to zero rated supplies would apply to export of goods and supplies made to SEZ units under the Cess Act also. As per the petitioner, in terms of Section 16(3) of the IGST Act, a person making zero rated supply shall be eligible to claim refund of cess in accordance with Section 54 of the CGST Act subject to fulfilment of conditions as prescribed therein. The manner of claiming refund is set out under the Central Goods and Services Tax Rules, 2017 (for short 'CGST Rules'). The petitioner purchases coal among other inputs in usual course of its business as fuel for generating steam to manufacture bulk drugs and formulations i.e., the outputs of the petitioner. Under the Schedule read with Section 8(2) of the Cess Act, the petitioner paid cess at the time of purchase. Such cess paid on purchase of coal qualifies to be an 'input tax' in terms of Section 2(g) of the Cess Act. According to the petitioner, since it had accumulated input credit of cess of such purchases made from time to time, the relevant returns in Form GSTR-EB also reflected the same. The petitioner undertook exports of its end products. Though the said goods are taxable in terms of the CGST Act or the

IGST Act, they are non-taxable goods in terms of the Cess Act as they are not specified in the Schedule to the Cess Act. Therefore, in terms of Section 2(i)(p) of the Cess Act read with Section 2(78) of the CGST Act and Section 2(47) of the CGST Act, the said supplies under the Cess Act qualify to be a 'non-taxable' supply. In view of the same, the petitioner claims to have exported the goods without payment of cess and without furnishing a Bond or Letter of Undertaking (LUT) as per Circular No.45/19/2018-GST dated 30.05.2018 which provides that Bond/LUT need not be furnished for export of goods in case of non-taxable supplies. However, the petitioner paid IGST on such exports in terms of Section 16(3)(b) of the IGST Act. In view of the same, the petitioner made a claim for refund of the cess paid on exports in Form RFD-01 on different dates in terms of Section 9 of the Cess Act read with Section 16 of the IGST Act. The petitioner also debited the electronic credit ledger by an amount equal to the refund amount so eligible by way of Form GST DRC-03 as in terms of Rule 89(3) of the CGST Rules, in case of refund of input tax, the electronic credit ledger shall be debited by the

applicant by an amount equal to the refund so claimed. Thereafter, the prescribed officer issued show cause notice to the petitioner in respect of the periods covering these Writ Petitions as to why such refund should not be rejected. It indicated that under Section 54(3) of the CGST Act, only refund of input tax without payment of IGST is permissible but the petitioner is seeking refund of unutilized Input Tax Credit of cess on payment of IGST. According to the petitioner, the show cause notice also noted that refund of accumulated Input Tax Credit (ITC) of cess on zero rated supplies with payment of tax is nowhere specified under the Act and the Rules. The petitioner submitted its explanation to the prescribed officer against each of the show cause notices issued from time to time. It took a plea that since the refund provisions of the CGST Act apply *mutatis mutandis* to the Cess Act also, the petitioner's claim for refund is maintainable in terms of Section 54(3) of the CGST Act read with Section 9 of the Cess Act. Since no cess was paid on export of goods, the claim for refund of tax is maintainable. Therefore, the payment of IGST is of no relevance to determine the eligibility

for claiming refund of cess. Since the cess was paid on inputs, which have been utilized in export of goods without payment of cess and it is a zero-rated supply in terms of Section 9 of the Cess Act read with Section 54(3) of the CGST Act, the petitioner is eligible to claim the refund of input cess. However, the proper officer rejected the claim of the petitioner by individual orders in respect of the relevant periods on the ground that in terms of Circular No.45/19/2018-GST dated 30.05.2018, a supplier cannot claim refund of compensation cess in case of zero-rated supplies made on payment of integrated tax. According to the petitioner, the other averments were not considered while rejecting the claim. Aggrieved thereby, the petitioner preferred an appeal before the appellate authority under Section 108 of the CGST Act in Form GST APL-01 reiterating the grounds in its reply to the show cause notice. The petitioner also clarified that for a person making zero-rated supplies on payment of tax, input of cess cannot be utilized for payment of IGST and therefore, the said Circular does not restrict the refund of cess on zero-rated supplies with payment of IGST. Despite opportunity of personal hearing, the

appeal was rejected on the ground that the petitioner made a claim for refund under the heading 'Any other' instead of the heading 'Exports without payment of tax' as such refund has been denied. On these grounds, the petitioner has therefore assailed the order passed by respondent No.2 and the appeal order passed by respondent No.3, in the present Writ Petitions.

5. The petitioner has taken a ground that in terms of the scheme of the GST legislation, exports can be undertaken with payment of IGST or without payment of IGST by furnishing a Bond/LUT in terms of Rule 96A of the Rules. Similarly, exports can be undertaken with payment of Cess or without payment of Cess by furnishing a Bond/LUT. However, Bond/LUT in the case of non-taxable supplies cannot be insisted upon (as clarified in Circular No.45/19/2018-GST dated 30.05.2018) and since the goods exported by the petitioner were non-taxable supplies under the Cess Act, the petitioner was not under an obligation to furnish a Bond/LUT for export of its goods. Thus, the petitioner could maintain a claim for refund of input cess even in the case of exports without payment of Cess and without furnishing a Bond/LUT

in terms of Rule 96A of the Rules. According to the petitioner, the compensation cess is an eligible input credit under GST and accordingly, refund under Section 54(3) of the CGST Act should *mutatis mutandis* be applied to cess in terms of which refund of unutilized ITC of cess should be eligible for refund where no cess is paid on export of goods. However, since the respondents failed to appreciate the stand of the petitioner based on the provisions of the 2017 Act and the Rules and the Cess Act, the petitioner was compelled to approach this Court since the appeal remedy under Section 112 of the CGST Act was not available.

6. Counter-affidavit was filed in the lead matter supporting the impugned orders relying upon the same Circular dated 30.05.2018.

7. The relevant paragraph which deals with refund of unutilized input tax credit of compensation cess availed on inputs in cases where the final product is not subject to the levy of compensation cess, in the Circular dated 30.05.2018 is extracted hereunder:

**“5. Refund of unutilized input tax credit of compensation cess
availed on inputs in cases where the final product is not subject to
the levy of compensation cess:**

5.1 Doubts have been raised whether an exporter is eligible to claim refund of unutilized input tax credit of compensation cess paid on inputs, where the final product is not leviable to compensation cess. For instance, cess is levied on coal, which is an input for the manufacture of aluminum products, whereas cess is not levied on aluminum products.

5.2 In this regard, section 16(2) of the Integrated Goods and Services Tax Act, 2017 (IGST Act for short) states that, subject to the provisions of section 17(5) of the CGST Act, credit of input tax may be availed for making zero rated supplies. Further, as per Section 8 of the Goods and Services Tax (Compensation to States) Act, 2017, (hereinafter referred to as the Cess Act), all goods and services specified in the Schedule to the Cess Act are leviable to cess under the Cess Act; and vide Section 11(2) of the Cess Act, Section 16 of the IGST Act is *mutatis mutandis* made applicable to inter-State supplies of all such goods and services. Thus, it implies that all supplies of such goods and services are zero rated under the Cess Act. Moreover, as Section 17(5) of the CGST Act does not restrict the availment of input tax credit of compensation cess on coal, it is clarified that a registered person making zero rated supply of aluminum products under the bond or LUT may claim refund of unutilized credit including that of compensation cess paid on coal.

5.3 Such registered persons may also make zero-rated supply of aluminum products on payment of integrated tax but they cannot utilize the credit of the compensation cess paid on coal for payment of integrated tax in view of the proviso to Section 11(2) of the Cess Act, which allows the utilization of the input tax credit of cess, only for the payment of cess on the outward supplies. Accordingly, they cannot claim refund of compensation cess in case of zero-rated supply on payment of integrated tax.”

8. The respondent State has taken the stand that under the head 'Exports with payment of tax', refund is not eligible as the goods are non-taxable supplies. The provisions quoted by the petitioner are applicable to taxable supplies if exported either with payment or without payment but not on non-taxable supplies. Section 16(3)(a) and (b) of the IGST Act clearly indicates eligibility for refund subject to prescribed conditions and safeguards. Therefore, the refund is not automatic. It is eligible subject to fulfilment of prescribed conditions. The prescribed condition is that the exported goods shall be taxable supplies to get the benefit of zero rated supplies with payment of tax. Without liability, payment of tax through DRC-03 does not entitle for refund. If the liability is discharged in accordance with law, the benefit of refund arises. The CBIC Circular dated 26.07.2017 also speaks the same. It is the case of the respondents that if the coal is exported as it is, then payment of tax under Cess Act, it is eligible for refund. Therefore, the impugned orders passed by the original and appellate authorities are proper.

9. The matters have been taken up today. However, at the outset, learned counsel for the respondent State, on instructions, submits that the position in law has been clarified by the Division Bench judgment of Gujarat High Court in the case of **Atul Limited and another v. Union of India and others**¹. The Gujarat High Court in the case of refund of unutilized ITC as against zero-rated supply of compensation cess paid, held that the petitioner in such cases can claim refund of the cess paid on purchase of coal used for manufacturing of goods exported being zero-rated supplies. The petitioner may have paid the IGST on the goods exported by it, but it was not required to pay any compensation cess as the goods manufactured by the petitioner are exempted from the levy of tax. In such a scenario, the law laid down in the case of **Patson Papers Private Limited v. Union of India and others**² would squarely apply to the facts of the present case. The case of **Patson Papers Private Limited** (supra) related to the manufacture of dyes and there was purchase of coal in the manufacturing process. It was involved in production of

¹ 2025 (7) TMI 1768

² 2025(6) TMI 1343

finished goods which was not liable to GST. Finished goods were exported being zero-rated supply. It is submitted that in the light of the ratio rendered by the Gujarat High Court, the department is inclined to reconsider the matter.

10. Learned counsel for the petitioner submits that in the present case, position in law would remain the same as the coal is used as an input for manufacturing purposes undertaken by the petitioner the final product of which is exported. These exports are to the SEZ and are exempted from levy of tax. If that be the case, the stand of the respondent department to reject the refund of accumulated unutilized cess but not required to be used for making zero-rated supplies which are non-taxable supplies was not proper. Learned counsel for the petitioner further submits that the judgment in case of **Patson Papers Private Limited** (supra) was carried to the Hon'ble Supreme Court by the Revenue and the Special Leave Petition was dismissed.

11. We have heard the learned counsel for the parties and taken note of the material facts and the relevant provisions of the Cess Act, CGST Act and IGST Act and the Rules

prescribed thereunder. Without further dilating on the position in law as it has been well laid down in the cases of **Patson Papers Private Limited** (supra) and **Atul Limited** (supra), since the department is inclined to reconsider the matter in the light of the decisions referred to hereinabove, the impugned Order-In-Original and the appellate order are set aside. The matter is remanded to the original authority to take a fresh decision in accordance with law after opportunity of hearing to the petitioner within a period of four (4) months.

These Writ Petitions are accordingly disposed of. There shall be no order as to costs.

Miscellaneous applications, if any pending, shall stand closed.

APARESH KUMAR SINGH, CJ

G.M.MOHIUDDIN, J

10th DECEMBER, 2025.

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