AVT McCormick Ingredients Pvt. Ltd. v. Union of India and Others

Transitional ITC Refund under Section 140, Rule 117 & Rule 89(4) and Maintainability of Belated Writ Petition

Date of Order: August 20, 2026
Case Law No: GIB-KERHC-2026-100
Source: GST INDIA Biz (www.gstindia.biz)

CASE DESCRIPTION / SUMMARY

BACKGROUND

The dispute arose from rejection of refund of transitional ITC. The Court found that the petitioner had not produced the TRAN-1 declaration or satisfactory material establishing availability of the disputed transitional credit in the Electronic Credit Ledger as on 01.07.2017.

The writ petition was also filed after expiry of the statutory appeal period. The Court therefore considered whether its discretionary jurisdiction under Article 226 could be invoked to revive the time-barred claim.

COURT OBSERVATIONS

The Court held that the transitional credit could support the refund only if the petitioner established that the credit was available in the Electronic Credit Ledger as on 01.07.2017. In the absence of satisfactory proof, interference with the adjudication order was not warranted.

The Court further held that Article 226 could not be exercised to resurrect a cause of action which had become unenforceable by limitation. Entertaining the belated writ petition would be contrary to the principle that litigation should attain finality.

FINAL VERDICT

The writ petition was **dismissed** as devoid of merit. The Court declined to interfere with the refund rejection order.

CASE REFERRED BY COURT

The same cases were referred to and considered in the judgment:

- **Moriroku UT India (P) Ltd. v. State of U.P. & Ors.** — Supreme Court of India — 2008..
- **A.V. Venkateswaran, Collector of Customs, Bombay v. Ramchand Sobhraj Wadhwani** — Supreme Court of India — 1961.
- **Rikhab Chand Jain v. Union of India** — Supreme Court of India — 2025.
- **Lt. Col. K.C. Chandra Bhanu v. Union of India** — High Court of Kerala — 2026.
- **Assistant Commissioner (CT) LTU v. Glaxo Smith Kline Consumer Health Care Ltd.** — Supreme Court of India — 2020.