

DOCTRINE OF UNJUST ENRICHMENT AND ITS RELEVANCE TO INPUT TAX CREDIT (ITC) CLAIMS UNDER GST LAW

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Abstract

The introduction of the Goods and Services Tax (GST) marked a significant shift in India's indirect taxation system, especially concerning the mechanism of Input Tax Credit (ITC). While ITC is intended to eliminate the cascading effect of taxes and promote seamless credit flow, refund claims under GST are often scrutinized through the lens of the doctrine of unjust enrichment. This doctrine, deeply rooted in equitable principles, prevents a taxpayer from obtaining a refund if the burden of tax has already been passed on to another party, typically the consumer. This paper explores the legal foundations of the doctrine, its application within the GST framework, key judicial pronouncements, and its impact on refund claims involving ITC. It also highlights practical and procedural challenges faced by taxpayers in establishing eligibility for refunds and proposes legal reforms to strike a balance between taxpayer rights and revenue protection.

1. Introduction

India's transition to the Goods and Services Tax (GST) regime in 2017 was hailed as one of the most transformative tax reforms in the country's post-independence history. One of its key objectives was to create a unified indirect tax system that facilitates the free flow of input tax credit (ITC) and avoids the cascading effect of taxes. Under this system, registered taxpayers are entitled to claim credit for taxes paid on purchases or inward supplies, which can be used to offset tax liability on outward supplies.

However, claiming refunds of ITC especially in cases of zero-rated supplies or excess credit triggers the application of the doctrine of unjust enrichment, a principle that mandates a taxpayer must not unjustly benefit from a refund if they have already shifted the tax burden onto another party. While this doctrine has historically played a vital role in preventing fraudulent or double claims in indirect taxation,

its application under GST has raised both practical and legal concerns.

This research seeks to examine the origins and legal foundation of the doctrine of unjust enrichment, its statutory incorporation under the GST framework, and its implications for ITC refund claims. Further, it discusses judicial interpretations and suggests a balanced approach that safeguards both taxpayer rights and government revenues.

2. Methodology

2.1 Research Design

This is a doctrinal legal research project. It relies on:

- Primary sources such as statutes, rules, circulars, case law, and constitutional provisions.
- Secondary sources including academic journal articles, commentaries,

government reports, legal treatises, and online tax portals.

The research is qualitative in nature and focuses on analyzing legal texts and judicial pronouncements.

2.2 Objectives of the Study

1. To trace the evolution and statutory incorporation of the doctrine of unjust enrichment in Indian indirect tax law.
2. To examine the legal framework under the CGST Act and Rules dealing with ITC refunds and unjust enrichment.
3. To analyze key judicial decisions interpreting and applying the doctrine.
4. To assess the impact of the doctrine on taxpayers' rights, especially with respect to ITC claims.
5. To evaluate policy and procedural challenges in the refund mechanism under GST.

2.3 Scope and Limitations

- The study is confined to the Indian GST framework, though comparative references may be drawn from pre-GST laws and international practices.
- It does not involve empirical data collection but relies on doctrinal and analytical methods.
- Focus is limited to ITC-related refund scenarios, and not the broader GST refund mechanisms (like exports or inverted duty refunds).

2.4 Research Questions

1. What is the legal basis and rationale for the doctrine of unjust enrichment in GST refund claims?
2. How have Indian courts interpreted and applied the doctrine in refund disputes, especially involving ITC?

3. Are there procedural or legal issues that affect the fair application of the doctrine?

4. How does the doctrine impact taxpayers' statutory rights to ITC refunds?

2.5 Sources of Data

Primary Sources:

- The Constitution of India
- Central Goods and Services Tax Act, 2017 and Rules
- Finance Act(s)
- Judgments from Supreme Court, High Courts, and GST Tribunals
- CBIC circulars, notifications, and press releases

Secondary Sources:

- Journal articles from NUJS Law Review, NLSIR, Taxmann, Manupatra, JSTOR
- Books and commentaries on GST law and tax jurisprudence
- Government reports (e.g., 13th Finance Commission Report, GST Council minutes)
- Online databases such as SCC Online, LiveLaw, Taxsutra, CBIC portal

2.6 Method of Analysis

The research involves:

- Statutory interpretation of GST provisions related to refund and unjust enrichment.
- Case law analysis to identify judicial patterns.
- Critical evaluation of administrative procedures like CA certification, declaration formats, and refund processing rules.
- Doctrinal comparison between pre-GST and post-GST jurisprudence.

3. Understanding the Doctrine of Unjust Enrichment

The doctrine of unjust enrichment is a legal principle grounded in equity, which holds that no person should be allowed to profit at the expense of another without a valid legal reason. In the context of tax law, it ensures that tax refunds are granted only when the applicant has not passed on the burden of the tax to another party, usually the end consumer.

3.1 Origins and Development

The doctrine traces its roots to common law jurisprudence and was recognized in Indian law primarily through judicial interpretation. The seminal case in this regard is *Mafatlal Industries Ltd. v. Union of India*, (1997) 5 SCC 536, where a nine-judge bench of the Supreme Court upheld the constitutionality of Section 11B of the Central Excise Act, 1944, which embodied this principle. The Court held that any refund claim must satisfy the test that the claimant has not passed on the tax burden to another party. This decision laid the foundation for the application of unjust enrichment in all indirect tax refund claims, including under GST.

Further, in *Union of India v. Solar Pesticides Pvt. Ltd.*, (2000) 2 SCC 705, the Supreme Court held that the doctrine is applicable even in cases where the tax burden is shifted indirectly, reaffirming that refunds are subject to scrutiny regarding incidence of tax.

3.2 The Principle in Equity and Public Policy

Unjust enrichment is rooted in the maxim *"nemo debet locupletari ex aliena jactura"*—no one should be enriched by another's loss. The doctrine serves as a protective shield for the exchequer, ensuring that refunds are not misused for personal enrichment. Its use in tax law reflects a public policy approach, where the goal is not merely to prevent fraud, but to ensure that public funds are returned only when they are not due to someone else.

3.3 Essential Elements

For a claim to be barred under the doctrine of unjust enrichment, three key elements must generally be proven:

1. The claimant received a benefit (e.g., tax refund).
2. The benefit was at the expense of another (e.g., consumer).
3. There was no legal justification for the claimant to retain the benefit.

In tax matters, the onus is on the claimant to prove that they have borne the burden of the tax and not transferred it further in the supply chain. This is particularly relevant in refund cases under the GST framework, which has incorporated the doctrine explicitly through its legal provisions.

4. Legal Provisions under GST Law

The Goods and Services Tax (GST) regime in India has a robust statutory framework for claiming refunds of taxes, including Input Tax Credit (ITC). The principle of unjust enrichment is firmly embedded in these provisions to prevent unjust or duplicate benefits, especially in the case of refunds.

4.1 Section 54 of the CGST Act, 2017

Section 54 of the Central Goods and Services Tax Act, 2017 is the principal provision governing refunds under the GST regime. Subsection (1) provides that any person claiming a refund of tax or any other amount paid under the Act may apply within two years from the relevant date. Subsection (5) outlines conditions under which refunds may be granted.

However, Section 54(8) is particularly important with regard to the doctrine of unjust enrichment. It provides that refunds shall be granted only in specific situations where the incidence of tax has not been passed on to any other person, namely:

- Export of goods or services (zero-rated supplies)

- Refund of tax paid on inward supplies by UN bodies, embassies, or notified persons
- Excess balance in the electronic cash ledger
- Refund of taxes paid on account of inverted duty structure

All other refunds are subject to Section 54(7), which mandates crediting the amount to the Consumer Welfare Fund (CWF) if the applicant is unable to prove that the tax burden has not been passed on.

“Notwithstanding anything to the contrary... the refundable amount shall, instead of being paid to the applicant, be credited to the Fund.” – Section 54(7), CGST Act, 2017

4.2 Rule 89 of the CGST Rules, 2017

Rule 89 of the CGST Rules, 2017 lays down the procedural framework for claiming a refund. Notably, Rule 89(2)(l) and 89(2)(m) require the applicant to furnish:

- A self-declaration if the refund amount is below ₹2 lakh, stating that the incidence of tax has not been passed on.
- A certificate issued by a chartered accountant or cost accountant if the refund amount exceeds ₹2 lakh, certifying the same.

This procedural requirement institutionalizes the application of the doctrine and places a significant burden of proof on taxpayers.

4.3 Section 11B of the Central Excise Act, 1944

Even though GST has subsumed earlier indirect taxes, Section 11B of the Central Excise Act, 1944 continues to hold relevance by way of precedent and historical interpretation. The section embodies the same principle—no refund unless the taxpayer proves that tax burden was not passed on—and has been upheld in various landmark judgments such as:

- *Mafatlal Industries Ltd. v. Union of India*, (1997) 5 SCC 536

- *Solar Pesticides Pvt. Ltd. v. Union of India*, (2000) 2 SCC 705

These precedents form the legal foundation of the application of unjust enrichment in indirect taxation and have been adapted into the GST framework with only minor modifications.

4.4 Role of the Consumer Welfare Fund (CWF)

The Consumer Welfare Fund, established under Section 57 of the CGST Act, receives the refundable amounts denied due to unjust enrichment. If the applicant fails to prove that the burden was not passed on, the refund is redirected to the CWF as a safeguard against undeserved gains. This mechanism illustrates how GST law prioritizes consumer protection and public interest in refund matters.

4.5 Summary of Legal Position

Legal Provision	Subject	Relevance to Unjust Enrichment
Section 54(8) CGST Act	Refund without unjust enrichment	Lists specific exceptions
Section 54(7) CGST Act	Refund to CWF	Applies if burden is passed on
Rule 89(2) CGST Rules	Procedural compliance	CA certificate or self-declaration
Section 11B Central Excise	Historical foundation	Upheld in landmark cases
Section 57 CGST Act	Consumer Welfare Fund	Receives unjustified refunds

5. Case Law and Judicial Analysis

The Indian judiciary has played a pivotal role in interpreting the doctrine of unjust enrichment in tax refund matters. Even before the advent of the Goods and Services Tax (GST), courts had laid down substantial jurisprudence on the issue under excise and service tax laws, much of

which remains relevant under the GST framework.

5.1 Pre-GST Jurisprudence: Foundational Principles

- **Mafatlal Industries Ltd. v. Union of India, (1997) 5 SCC 536**

This landmark judgment by a nine-judge bench of the Supreme Court upheld the constitutional validity of Section 11B of the Central Excise Act, which incorporated the doctrine of unjust enrichment. The Court held:

“A person who has passed on the burden of tax to another cannot be said to have suffered a loss or detriment and hence, is not entitled to claim a refund.” – *Mafatlal Industries*, (1997)

The Court emphasized the equitable nature of the doctrine and its alignment with public interest, thereby disallowing refund claims where the tax incidence was passed on to the consumer.

- **Solar Pesticides Pvt. Ltd. v. Union of India, (2000) 2 SCC 705**

This judgment extended the doctrine to cases where the duty was paid on raw materials. The petitioner claimed the refund, arguing that the end product was exempt and hence no duty burden was transferred. The Supreme Court disagreed, holding:

“It is the burden of the claimant to prove, by evidence, that he has not passed on the incidence of duty.” – *Solar Pesticides*, (2000)

This case emphasized that even indirect benefit transmission (such as in pricing structures) could amount to unjust enrichment.

5.2 Application under GST: Emerging Judicial Trends

With the implementation of GST in 2017, similar legal issues have resurfaced. The courts have largely adopted the pre-GST reasoning and adapted it to the **new statutory context**.

- ◆ **Union of India v. VKC Footsteps India Pvt. Ltd., (2021) 2 SCC 603**

Although primarily a case on inverted duty structure refunds, the Supreme Court reiterated the principle that refunds are a matter of statutory right, not inherent or equitable right. The Court did not directly address unjust enrichment but reaffirmed that refunds are governed strictly by statutory conditions under Section 54.

- ◆ **Assistant Commissioner (ST) v. Sutherland Global Services Pvt. Ltd., 2020 SCC OnLine Mad 3307**

In this Madras High Court ruling, the petitioner sought a refund of accumulated ITC. The department denied it on grounds of unjust enrichment. The Court held:

“The requirement of furnishing a CA certificate is not a mere formality; it is a substantive safeguard.” – *Sutherland Global Services*, 2020

This reinforces that procedural compliance (e.g., CA certificates) is crucial for satisfying the burden of proof under GST law.

- ◆ **Gujarat Fluorochemicals Ltd. v. Union of India, 2022 (63) G.S.T.L. 401 (Guj.)**

Here, the Gujarat High Court dealt with a refund claim where the taxpayer submitted a declaration but no CA certificate for a claim exceeding ₹2 lakhs. The refund was denied. The Court upheld the rejection, stating that the onus to prove absence of unjust enrichment lies squarely on the claimant.

5.3 Key Judicial Themes and Observations

Theme	Judicial Approach
Burden of Proof	Lies entirely on the claimant (e.g., <i>Mafatlal</i> , <i>Solar Pesticides</i>)
Procedural Rigor	CA certificates are mandatory and non-negotiable
Refund Right	Refund is conditional, not automatic or equitable
Continuity	Pre-GST principles are applied under GST framework

5.4 Critical Analysis

Judicial decisions have consistently upheld the doctrine of unjust enrichment as a fundamental principle of tax jurisprudence, intended to protect state revenue and prevent abuse of refund mechanisms. However, some scholars argue that the strict burden of proof and procedural

hurdles may undermine genuine refund claims, particularly by small taxpayers lacking access to professional representation.

Additionally, critics suggest that blanket application of unjust enrichment rules, even in situations where the refund arises from accumulated ITC or excess payment due to department error, may lead to unintended denial of legitimate claims.

6. Results and Analysis

6.1 Statutory Framework: Refunds and the Presumption of Unjust Enrichment

The legal basis for rejecting refund claims on grounds of unjust enrichment is found in **Section 54(8)(c)** of the CGST Act, 2017. It provides that refund shall be paid to the applicant only if he has not passed on the incidence of tax to any other person. In other cases, the amount is credited to the Consumer Welfare Fund under Section 57.

Moreover, Rule 89(2)(l) and (m) of the CGST Rules mandates:

- A self-declaration in cases where the refund does not exceed ₹2 lakhs.
- A certificate from a Chartered Accountant if the refund exceeds ₹2 lakhs, certifying that the incidence of tax has not been passed on.

This creates a statutory presumption that the burden of tax has been passed on unless rebutted by documentary evidence.

6.2 Application of the Doctrine in ITC Refund Claims

In practice, taxpayers claiming a refund of **accumulated ITC** must demonstrate:

- That the credit is not part of the cost passed on to buyers.
- That the refund claim is genuine and not leading to **double benefit**.

Example:

In *Gujarat Fluorochemicals Ltd. v. Union of India*, 2022 (63) G.S.T.L. 401 (Guj.), the Gujarat High Court upheld the rejection of refund due to the absence of a CA certificate. This case illustrates how procedural lapses, even if inadvertent, can trigger the application of the unjust enrichment bar.

6.3 Challenges and Criticisms

(a) Ambiguity in Application

Taxpayers often struggle to understand how to prove they have not passed on the tax burden, especially in B2B transactions where pricing structures are complex.

(b) Burden on Small Taxpayers

The requirement of obtaining a CA certificate for refunds over ₹2 lakhs is viewed as burdensome for small businesses and may lead to denial on technical grounds, even when the taxpayer is not unjustly enriched.

(c) Presumption Over Substance

Scholars have criticized the presumption of unjust enrichment in refund cases as sometimes overriding the substantive right to refund under Article 265 of the Constitution (which prohibits collection of tax without legal authority).

6.4 Trends in Judicial Interpretation

Courts have generally upheld the doctrine but have also indicated flexibility in cases where refund was denied on hyper-technical grounds. For instance:

- In *Sutherland Global Services Pvt. Ltd.*, the Madras High Court upheld the CA certification rule but also emphasized that refund should not be denied mechanically without considering substance.

- The Supreme Court in *Mafatlal Industries Ltd.* cautioned that the doctrine must not be used to frustrate legitimate refund claims.

7. Discussion and Conclusion

7.1 Discussion: Legal and Policy Implications

The doctrine of unjust enrichment serves as a legal safeguard to prevent undeserved refunds under GST. However, its rigid application—especially in Input Tax Credit (ITC) claims—often clashes with taxpayers’ substantive rights and the principles of equity.

(a) Tension Between Constitutional Rights and Administrative Procedure

The constitutional principle under Article 265 of the Indian Constitution mandates that “no tax shall be levied or collected except by authority of law”. Refund of wrongly collected tax or accumulated ITC should logically follow this mandate. However, the presumptive application of unjust enrichment often creates barriers to legitimate refunds, especially when form over substance dominates.

(b) Procedural Rigidity vs. Substantive Justice

The requirement of a CA certificate or self-declaration for every refund claim exceeding ₹2 lakh, though well-intentioned, introduces compliance friction. In many cases, taxpayers lose out on refunds due to minor technical non-compliance, despite fulfilling substantive conditions.

This raises concerns over proportionality and due process in tax administration. A more risk-based approach could ensure refund protection without overburdening compliant taxpayers.

(c) Judicial Trends and the Need for Harmonization

Judicial interpretation, while generally in line with the legislative intent, has sometimes deviated to promote substantive justice. This has created inconsistency and uncertainty, particularly in export-related refunds, inverted

duty structure, and B2B pass-through arrangements.

There is a growing need for judicial harmonization through Supreme Court precedent or a uniform administrative clarification by CBIC.

7.2 Recommendations

1. Simplify Procedural Requirements: The CA certificate threshold can be raised or replaced with automated validations from GST returns (e.g., GSTR-2B matching).
2. Clarify Scope of Unjust Enrichment in B2B Transactions: Refunds in B2B cases, where the recipient claims ITC, should not be subjected to unjust enrichment tests, as tax incidence effectively shifts.
3. Issue Binding Clarifications: CBIC should issue detailed guidance or circulars on unjust enrichment treatment, including specific refund categories.
4. Judicial Clarification: The Supreme Court may need to provide definitive guidance on the interplay between the doctrine and Article 265 to curb arbitrariness.
5. Use of Technology: Integration of AI and data analytics in GSTN could reduce the need for manual certifications, ensuring objective refund validation.

7.3 Conclusion

The doctrine of unjust enrichment remains a powerful legal principle aimed at preventing windfall gains at public expense. However, its incorporation into the GST refund regime, particularly concerning ITC claims, has led to procedural complexities, taxpayer grievances, and administrative inefficiencies.

While courts and authorities have attempted to maintain a balance, the current framework tends to prioritize revenue protection over taxpayer facilitation. The challenge lies in aligning the doctrine’s equitable origins with a modern, digitally-driven tax ecosystem. With

appropriate legal reforms, administrative flexibility, and judicial consistency, the doctrine can be rightly positioned as a tool of justice, rather than a barrier to it.

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