IN THE GOODS AND SERVICES TAX APPELLATE TRIBUNAL KOLKATA BENCH

COURT NO.1

Appeal No. APL/88/KLK/2026

Zeneeda Information Technology Private Limited
86A, 2nd, Hautstreet, Topsia Road
Kolkata-700046, West Bengal

…… Appellant

VERSUS

Office of the Commissioner of State Tax (WB)
Park Street Charge, Circle-Kolkata South
14 Beliaghata Road, Kolkata-700015

…… Respondent

In appearance :

For the appellant : Ms. Dimple Jogani, Chartered Accountant
For the respondent : Ms. Jhumpa Pal, Addl. Commissioner, SGST

CORAM :

Hon'ble Shri S.G. Chattopadhyay : Judicial Member
Hon'ble Shri Bijoy Kumar Kar : Technical Member

Final Order

Date of Hearing : 02.09.2026
Date of Order : 02.09.2026

Per S.G. Chattopadhyay (JM):

[1]. This is an appeal filed by the taxpayer under sub-section (1) of Section 112 of the Central Goods and Services Tax Act, 2017 (hereinafter called, 'the CGST Act, 2017') against the order dated 29.09.2025 passed by the first appellate authority in the appeal filed under Section 107 of the CGST Act, 2017.

[2]. Facts of the case, in brief, are as under :

The appellant-taxpayer is engaged in providing services in the nature of IT Consultation and Support under GSTIN 19AAHCT127A1ZM and for this purpose the taxpayer has set up an office at 86A, Hautstreet, Topsia Road, Kolkata-700046, West Bengal. A demand notice dated 21.03.2024 was served on the taxpayer by the revenue enforceable under Section 73 of the CGST Act, 2017 and the corresponding provision of West Bengal Goods and Services Tax Act, 2017 (in short WBGST Act, 2017). It was alleged that the taxpayer availed excess ITC under CGST and SGST and he was liable to reverse the amount of excess ITC availed by him along with interest at the applicable rate and the penalty. The summary of the demand contained in the said demand notice is as under:

SUMMARY OF TAX, INTEREST & PENALTY PAYABLE

TAX HEAD	TAX (Rs.)	INTEREST (Rs.)	PENALTY (Rs.)
IGST	0.00	0.00	0.00
CGST	7,51,134.00	6,32,573.00	75,113.40
SGST	7,51,134.00	6,32,573.00	75,113.40

[3]. The adjudicating authority confirmed the said demand in his order dated 10.07.2024 (hereinafter referred to as 'OIO') and held that the taxpayer was liable to reverse the excess ITC availed by him along with interest and penalty as per the demand order.

[4]. The aggrieved taxpayer moved the first appellate authority by filing appeal under Section 107 of the WBGST/CGST Act, 2017 read with Rule 108 of the WBGST and CGST Rules, 2017 wherein it was contended by

the taxpayer that the taxpayer inadvertently availed the excess ITC and after the mistake was detected by him, the taxpayer reversed the entire amount of ITC along with applicable interest before issuance of the demand notice and since the amount of excess ITC availed by him was reversed along with interest prior to issuance of demand-cum-show cause notice, the taxpayer was not liable to pay any penalty on the demand in terms of Section 73 of the CGST Act, 2017 and the corresponding provision of the WBGST Act, 2017.

[5]. The first appellate authority declined to interfere with the order of the adjudicating authority and vide order dated 30.09.2025, the first appellate authority has held as under :

> *"**Interest in dispute***
>
> *As per the provisions of section 50, every person who is liable to pay tax in accordance with the provisions of this Act or rules made there under, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen percent, as may be notified by the Government on the recommendations of the council.*
>
> *So Interest liability arises naturally with the non-payment of tax within the prescribed period. Such additional liability has to be discharged by a tax payer on his own whenever there is default in payment of tax beyond statutory due date.*
>
> *Hence, the demand of interest is justified. Interest is payable up to the date of payment of due tax.*
>
> ***Imposition of penalty***
>
> *From records it appears that notice in FORM GST DRC-01 was served under section 73 of the Act.*
>
> *Sub section 8 of section 73 provides-*

> *Where any person chargeable with tax under sub-section (1) or sub- section (3) pays the said tax along with interest payable under section 50 within thirty days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.*

Since, in the instant case, the appellant had failed to pay the tax along with interest within thirty days of issue of show cause notice, the imposition of penalty is justified in accordance with provisions of sub section 9 of Section 73 of the Act.

Upon considering the entire records and documents and submission of the appellant, the instant case is disposed of without interfering in the order of the respondent. Accordingly the appeal petition fails and is rejected upholding the order of the respondent."

[6]. Aggrieved taxpayer has challenged the said order of the first appellate authority before this Tribunal mainly on the following grounds :

i) The taxpayer has discharged his burden by reversing the entire amount of excess ITC availed by him along with applicable interest before issuance of the demand-cum-show cause notice which is evident from the self-assessment made by the taxpayer in GSTR3B filed for the month of December, 2020.

ii) The first appellate authority did not record any reason for arriving at the decision and as such the impugned order passed by the first appellate authority is liable to be set aside.

iii) The first appellate authority has committed gross error in attributing penalty to the taxpayer without taking into consideration the fact that the taxpayer reversed the entire amount of ITC along with applicable interest much before issuance of demand notice.

iv) There is no prohibition under the law for the taxpayer to reverse the excess ITC availed by him voluntarily.

Under the premises aforesaid, the taxpayer urged this Tribunal for setting aside the impugned order passed by the first appellate authority.

[7]. The revenue has filed cross objections. In paragraph (vii) of the cross objection, the revenue in unambiguous terms has admitted the case of the taxpayer that the taxpayer reversed the entire amount of ITC along with interest at the applicable rate before issuance of the demand notice. It would be appropriate to reproduce paragraph (vii) of the cross objection which reads as under :

> *(vii) It is worthwhile to mention here that the appellant reversed the exact amount of input tax credit towards CGST-7,51,134.00 and SGST-₹7,51,134.00 in the table 4(B)(2) of the returns in GSTR-3B for the month of December, 2020, filed on 20-01-2021, prior to the initiation of the afore-said proceeding and also paid the interest towards CGST-91,865.00 and SGST-91,865.00 therein.*

[8] We have heard Ms. Dimple Jogani, Chartered Accountant for the appellant-taxpayer who reiterated the claim of the taxpayer that the first appellate authority passed an arbitrary order without considering the factual aspect and the submission of the appellant-taxpayer. Ms. Jogani has vehemently argued that the taxpayer was served with a demand notice despite the reversal of the exact amount of the excess ITC availed by him along with applicable interest. Ms. Jogani has, therefore, urged this Tribunal to set aside the order of the first appellate authority.

[9]. Ms. Jhumpa Pal, Additional Commissioner, WBGST has been very fair to submit before us that she has scrutinized the record and examined the claim of the appellant-taxpayer in the light of the revenue records. Ms.

Pal contends that on scrutiny the claim of the appellant-taxpayer has been found genuine. The entire amount of excess ITC was reversed by the taxpayer along with applicable interest prior to issuance of demand-cum-show cause notice and, therefore, the taxpayer is not liable to pay any interest as provided under Section 73 of the CGST Act, 2017.

[10]. In view of the fact that the case of the appellant-taxpayer has been admitted by the revenue, the present appeal stands allowed on admission by setting aside the impugned order of the first appellate authority. The order of the appropriation of demand if required, shall be issued by the proper officer within a period of one month from the date of communication of this order. Appeal is disposed off accordingly.

Order is pronounced in open Court in presence of the authorised representatives of the parties.

The Registry is directed to upload the Final Order on GSTAT Portal immediately.

S.G.Chattopadhyay

Bijoy Kumar Kar