GSTAT

Court No. Court I

APL/38/KLK/2026

The Commissioner of CGST & Central Excise,

Kolkata North Commissionerate,

GST Bhawan, 180, Shantipally, Rajdanga Main Road,

Kolkata-700107

..... **Appellant**

Versus

M/s Amrit Crafts Private Limited,6th Floor, Room No. 605, 1, British Indian Street,

Kolkata 700 069

GSTIN/Temporary ID /UIN-19AAECA9154A2ZT **Respondent**

Counsel for Appellant

SHRI SHILANANDA TIGGA, SUPERINTENDENT, CGST, AUTHORISED REPRESENTATIVE

Counsel for Respondent

SHRI DAYA SHANKAR AGARWALA, CA AND SHRI VIKASH KUMAR BANKA, CA, AUTHORIZED REPRESENTATIVES

Hon'ble Shri Sunil Kumar Singh, Member(Judicial)

Hon'ble Shri Bijoy Kumar Kar, Member (Technical)

Form GST APL-04A

[See rules 113(1) & 115]

Summary of the order and demand after issue of order by the GST Appellate Tribunal

whether remand order : No

Order reference no. : **Date of order :**

1.	GSTIN/Temporary ID/UIN - 19AAECA9154A2ZT

2.	Appeal Case Reference no. - APL/38/KLK/2026	Date – 11.03.2026
3.	Name of the appellant – ATANU MONDAL	
4.	Name of the respondent - M/s Amrit Crafts Private Limited	
5.	Order appealed against –	
	(5.1) Order Type – Appeal Order	
	(5.2) Ref Number – ZD1905250196827	Date – 14.05.2025
6.	Personal Hearing – 11.06.2026, 02.07.2026, 17.07.2026, 23.07.2026 & 14.08.2026	
7.	Status of Order under Appeal - Dismissed – Order under Appeal is Dismissed	

8.	Order in brief - Impugned OIA is upheld and the Revenue appeal is dismissed.
Summary of Order	
9.	If demand order then whether demand quantified: No

10.	For Other orders and Demand orders which are not quantified:	
Issues as raised by proper officer	Issues as determined by Appellate/Revisional authority	Order by GST Appellate Tribunal
Erroneous Refund	Appeal was allowed in favor of taxpayer.	The revenue appeal is dismissed.

Place

:KOLKATA

Date :

Signature

Shri Sunil Kumar Singh

Designation : Member

Jurisdiction :Kolkata

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IN THE GOODS AND SERVICES TAX APPELLATE TRIBUNAL

KOLKATA BENCH

COURT NO.1

Appeal No.: APL/38/KLK/2026

The Commissioner of CGST & Central Excise,

Kolkata North Commissionerate

GST Bhawan, 180, Shantipally, Rajdanga Main Road,

Kolkata – 700107

…….APPELLANT

Versus

M/s Amrit Crafts Private Limited,6th Floor, Room No. 605, I British Indian Street, Kolkata 700 069

GSTIN/Temporary ID /UIN-19AAECA9154A2ZT

……RESPONDENT

In appearance :

For the appellant: Shri Shilananda Tigga, Superintendent, CGST

For the respondent: Shri Daya Shankar Agarwala, CA and Shri Vikash Kumar Banka, CA.

CORAM :

Hon'ble Shri Sunil Kumar Singh : Judicial Member

Hon'ble Shri Bijoy Kumar Kar : Technical Member

Final Order

Date of Hearing : 14.08.2026

Date of Order :

Per: Shri Sunil Kumar Singh, Judicial Member

1. The present appeal has been preferred by the petitioner (Revenue) before the GSTAT, Kolkata Bench under sub-section (1) of Section 112 of the Central Goods & Services Tax Act, 2017 (in short 'CGST Act') against the Order-in-Appeal (in short OIA) No. 275/CGST/Kol North/2025 dated 30.04.2025 passed by the Additional Commissioner (Appeals), CGST & CX, Kolkata Appeals I Commissionerate (in short 'the first Appellate Authority'). The said appeal has been filed before the first Appellate Authority by the present respondent i.e., M/s Amrit Crafts Private Limited under sub-section (1) of Section 107 of the CGST Act against the Order-in-Original bearing Ref No. ZD190225012480S dated 07.02.2025 passed by the Assistant Commissioner of CGST and Central Excise, BBD Bag II Division, Kolkata North Commissionerate.

2. The respondent i.e., M/s Amrit Crafts Private Limited (19AAECA9154A2ZT) situated at 6th Floor, Room No. 605, I British Indian Street, Kolkata 700 069 is engaged in the business of scouring, dyeing and washing of grey fabric on job-work basis, strictly in accordance with the specifications provided by its principal manufacturers / buyers from time to time. Ordinarily, the grey fabric is supplied by the principal manufacturer; however, in certain cases, the respondent also procures the grey fabric on behalf of the principal manufacturer for carrying out the requisite processing. The respondent also submits that in the course of carrying out such processing activity, the respondent uses various chemicals, dyes and other consumables, on which GST is leviable at higher rates, namely 18% / 12% (at the relevant time), whereas the outward supply of processed fabrics attracts GST at 5%. As a consequence of the aforesaid inverted tax structure, the respondent accumulates Input Tax Credit (in short 'ITC') on a regular basis and is, therefore, entitled to claim refund of such accumulated ITC in terms of section 54(3)(ii) of the CGST Act, 2017 read with rule 89(5) of the CGST Rules, 2017.

3. The brief fact as stated by Revenue (petitioner herein) that the respondent has filed for refund of accumulated ITC under the inverted tax structure for an amount of Rs.9,60,955/- for the period from May 2024 to June 2024 with the jurisdictional Officer i.e., the Assistant Commissioner of CGST and Central Excise, BBD Bag II Division, Kolkata North Commissionerate (in short 'the original adjudicating authority' or 'OAA').

4. During the scrutiny of the said refund claim, the OAA has noticed certain deficiencies in the aforesaid refund claim and accordingly issued Show Cause Notice (in short 'SCN') bearing Ref Nos. ZD190125008841K dated 06.01.2025 to the respondent. The respondent has furnished reply to the SCN in Form GST RFD 09 on 15.01.2025. The OAA after following the due course of law has rejected the refund claim vide Refund Sanction Order bearing Ref No. ZD190225012480S dated 07.02.2025 (in short 'the impugned order'). Being aggrieved by the impugned order, the respondent preferred an appeal before the first Appellate Authority vide Ref No. AD190325013945Y dated 11.03.2025. However, the first Appellate Authority has allowed the refund claim filed by the respondent and set aside the impugned order vide Order-in-Appeal No. 275/CGST/Kol-

North/2025 dated 30.04.2025 (in short 'the impugned OIA')

5. The petitioner i.e., the Revenue, being aggrieved by the order of the first Appellate Authority, filed the instant appeal before this Tribunal mainly on the following grounds:

5.1 The revenue stated that the first Appellate Authority have passed the order without application of mind, the order is non speaking and cryptic in nature. It has been further stated that the first Appellate Authority could not differentiate between an adjustment of Credit Note and the outward supply from the GSTR-3B return for the month of May 2024 and thus, the first Appellate Authority found that the ITC involved in the Credit Note is to be deducted from the relevant ITC figure WHICH IS NOT PERMISIBLE. It is further argued that the first Appellate Authority has committed an error by deducting the Credit Note amount from total supply value as declared in GSTR 3B for the relevant period. The Revenue have made grounds that the above observation is not based on any provision of law in respect of determining the amount of admissible refund. Further, if the Appellate Authority was indecisive in reaching any conclusion regarding

applicability of Credit Note, he could have verified the matter from other evidences.

5.2 The Revenue also contended that the first Appellate Authority has allowed the appeal and directed the OAA to review the calculation which amounts to remanding the appeal, as per the provisions of law the first Appellate Authority has no power to remand back the case to the OAA in terms of Section 107(11) of the CGST Act, 2017.

6. We have heard the arguments of the petitioner on the point of admission. The petitioner is represented by Shri Shilananda Tigga, Superintendent, CGST who is authorized representative of the Revenue. The appeal was admitted and accordingly notice was issued to the respondent. The respondent filed his authorization and appeared through Shri Daya Shankar Agarwala, CA and Shri Vikash Kumar Banka, CA, the Authorized Representatives. The authorized representatives have filed the Cross Objection in the instant appeal giving para-wise reply:

6.1 The respondent replied in respect of credit notes issue that the first Appellate Authority have correctly decided the issue and discussed in detail. The first Appellate Authority has held that for the purpose of

refund calculation, the ITC relatable to the credit notes as well as the corresponding outward taxable supply value were both required to be reduced from the relevant figures. The fact that the first Appellate Authority observed that such differentiation was not readily available from the GSTR-3B for May 2024 does not render the finding unreasoned. On the contrary, the finding lays down correct method of computation. It is further material that, while giving effect to the OIA, the first Appellate Authority itself deducted the value of the credit notes from turnover and the corresponding ITC from Net ITC. This itself shows that such finding was workable, intelligible and capable of implementation. The objection raised by the Revenue on this aspect is therefore wholly untenable and liable to be rejected.

6.2 With respect to the ground of inputs and output being same, the respondent submits that the first Appellate Authority has clearly examined the method of the respondent's activity, namely dyeing and washing of fabrics on job-work basis and the use of dyeing reagents and other chemicals in such processing activity as inputs and the scope of applicability of Circular No. 135/05/2020-GST dated 31/03/2020 as amended by Circular No. 173/05/2022-GST dated 06/07/2022.

6.3 In respect to the other ground raised by the Revenue, the respondent submits that the Revenue has erroneously contended that the OIA is indeterminate merely because the first Appellate Authority directed review of the refund calculation. The respondent in reply submits that the said contention proceeds on a complete misunderstanding of the nature and effect of the OIA. The first Appellate Authority did not leave the substantive issue undecided. On the contrary, the first Appellate Authority examined the basis of rejection of refund and set aside the impugned order (Refund speaking order) after recording findings in favour of the respondent. Once the principal issue of eligibility stood decided, the remaining issue was only the consequential exercise of giving effect to the appellate findings by re-computing the refund amount. Such re-computation does not amount to remand the case by the first Appellate Authority. In refund matters under section 54(3)(ii) read with rule 89(5), the exact refund amount depends upon proper identification of inverted turnover, admissible Net ITC, exclusions, and application of the statutory formula. Therefore, after deciding the legal issue and indicating the relevant parameters, directing the OAA to carry out arithmetical working is only a mechanical implementation

of the appellate decision. The Revenue's allegation that the first Appellate Authority ought to have quantified the exact amount itself is therefore misconceived. The direction for calculation in terms of the findings of the first Appellate Authority was neither indeterminate nor assumptive, but a permissible consequential direction for giving effect to the OIA. The Revenue has failed to demonstrate that the first Appellate Authority remanded or referred back the matter for fresh decision. The objection raised on relying on Section 107(11) of the CGST Act, 2017 is, therefore, misconceived and untenable. Section 107(11) of the CGST Act, 2017 prohibits a true remand of the case to the adjudicating authority for fresh decision. It does not prohibit the Appellate Authority issuing a direction in appeal and directing consequential computation or implementation.

7. We have heard the arguments of both the parties in detail. The same are not being discussed here as because the parties have advanced their arguments which have already been covered in the Grounds of Appeal.

7.1 We have carefully heard the arguments of parties and examined the records minutely. The contention of the Revenue that the first Appellate Authority has not verified

the turnover due to the involvement of credit notes that may affect the quantum of refund under inverted duty structure is not correct. In fact, on perusal of the OIA, it is clear that first Appellate Authority have discussed the issue in detail and have rightly observed that the deduction of credit note amount from the outward taxable supply for the purpose of turnover. We find it justified as a credit note is issued in cases where the supply is returned/ rejected. The same has been also mentioned in Section 34(1) of the CGST Act, 2017. For brevity, we reproduce the relevant portion of provision as under:

"34(1) [Where one or more tax invoices have] been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or ***where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient****, the registered person, who has supplied such goods or services or both, may issue to the recipient [one or more credit notes for supplies made in a financial year] containing such particulars as may be prescribed."*

On plain reading of the provision, it is amply clear that a credit note is issued when the supply has not been made due to various reasons. When the goods are

returned after supply, a credit note is issued and the same shall be deducted from the total turnover of the supply for the purpose of calculation of refund under Rule 89(5) of the CGST Rules, 2017. There is no irregularity in the finding made by the first Appellate Authority while deciding the issue.

7.2 With respect to the issue raised by the Revenue by relying on para 3.2 of the CBIC Circular No.135/05/2020-GST dated 31.03.2020 on the fact that both the inputs and output supplies are falling under same HSN. We have examined the said circular. The provisions of the said circular are applicable for the cases where there is reduction in GST rate. The same is mentioned in the heading of para 3 of the said circular. For brevity we reproduce the para 3 of the circular below:

"3. Refund of accumulated input tax credit (ITC) on account of reduction in GST Rate

3.1 It has been brought to the notice of the Board that some of the applicants are seeking refund of unutilized ITC on account of inverted duty structure where the inversion is due to change in the GST rate on the same goods. This can be explained through an illustration. An applicant trading in goods has purchased, say goods "X" attracting 18% GST. However, subsequently, the rate of GST on "X" has been reduced to, say 12%. It is being claimed that accumulation of ITC in such a case is also covered as accumulation on account of inverted duty structure and such applicants have sought

refund of accumulated ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act.

3.2 It may be noted that refund of accumulated ITC in terms clause (ii) of sub-section (3) of section 54 of the CGST Act is available where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. It is noteworthy that, the input and output being the same in such cases, ***though attracting different tax rates at different points in time****, do not get covered under the provisions of clause (ii) of sub-section (3) of section 54 of the CGST Act. It is hereby clarified that refund of accumulated ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act would not be applicable in cases where the input and the output supplies are the same."*

On plain reading of the heading contained in para 3 of the Circular, it is amply clear that the provisions of the circular are only applicable in cases where there is a reduction in the rate of GST. Further, the wordings contained in para 3.2 of the Circular viz., "***though attracting different tax rates at different points in time"*** clear meaning that the provisions will be applicable only when the same goods attract different rates of tax at different points of time. However, in the instant case, the issue is entirely different since the final product i.e., fabrics when sold in the open market are being sold at same rate of GST as there is no reduction in the GST rate. Hence, the Revenue's reliance on this ground is factually incorrect and legally not tenable.

7.3 The argument of the Revenue that in view of Circular No. 135/5/2020 GST, the respondent is not entitled for the refund claim. The Hon'ble High Court of Madras have examined the Circular No. 135/5/2020 GST and have made their observation in the case of M/s Vindhya Spinning Mills Private Limited vs. The Assistant Commissioner of CGST and Central Excise, Sivakasi Division, Thiruthangal, W.P.(MD) Nos. 16757 & 16758 of 2025, decided on 14.07.2026 [2026-VIL-731-MAD; Neutral Citation: 2026:MHC:2893] and have clearly observed in paras 17 and 18 as below:

"17. Thus, it can be seen that the statute does not make any distinction between major and minor components. It clearly provides that if there is a higher rate of tax on output supplies, the party is entitled to claim a refund of unutilised input tax credit. It is now well settled that the taxing statute has to be construed as such. The catena of decisions quoted by the Learned Counsel for the petitioner lay down that the petitioner is entitled to the relief. In this case, though the rate of tax on cotton yarn is the same, with reference to the chemicals used, the packing and other materials used, there is a higher rate of tax on the output goods, and hence the petitioner is entitled to succeed. The necessary formula for the calculation is also prescribed in Rule 89 (5) of the Rules. The circular dated 18/11/2019 has already been declared unconstitutional, and hence no further relief need be granted regarding the same.

18. As a result,

(i)W.P.(MD)No.16757 of 2025 stands allowed. The impugned Order No. 7/XO0601/2025-Refund dated 17.03.2025 stands quashed. The respondent is directed to process and sanction the refund of Rs. 10,88,231/- along with interest as per the

provisions of the CGST Act, 2017, in accordance with the formula prescribed under Rule 89(5), after affording an opportunity of personal hearing, within three months from the date of receipt of the web copy of the Order.

(ii)W.P. (MD) No. 16758 of 2025 stands allowed. The impugned order No. 12/XO0601/2025-Refund dated 15.05.2025 stands quashed. The respondent is directed to process and sanction the refund of Rs. 15,50,228/- along with interest as per the provisions of the CGST Act, 2017, in accordance with the formula prescribed under Rule 89(5), after affording an opportunity of personal hearing, within three months from the date of receipt of the web copy of the Order."

In view of the observation made by the Hon'ble High Court of Madras, the argument advanced by the Revenue authority has no force. The circular No. 135/5/2020 GST is not applicable in the fact and circumstances of this case.

7.4 We have gone through the issue raised by the Revenue that the first Appellate Authority does not have the power to remand in terms of Section 107(11) of the CGST Act, 2017, we have gone through the OIA issued by the first Appellate Authority where the authority has allowed the appeal with consequential effects. Once the major issue is concluded and decided, thereafter order is passed to give effect by re quantifying/ re calculation of the refund amount cannot be called as remand of the case in terms of Section 107(11) of the CGST Act, 2017. The first Appellate Authority did not leave the refund claim open for fresh adjudication, nor did he authorise

the OAA to reconsider the issues already decided in appeal. The first Appellate Authority had no jurisdiction to re-open the merits of the refund claim. What remained was only the consequential exercise of carrying out the computation in conformity with the appellate findings. Such ministerial re-computation cannot be equated with a prohibited remand under section 107(11) of the CGST Act, 2017. It is further material that the OIA was in fact acted upon by the Revenue itself; the refund was re-worked on the basis of the findings of the first Appellate Authority and refund of Rs.8,44,028/- was ultimately sanctioned and paid on 02.07.2025. This clearly demonstrates that the order of the first Appellate Authority was workable, capable of implementation, and did not amount to a prohibited refer back under section 107(11) of the said Act. Thus, the contention of the Revenue regarding remand of the case is not correct.

8. For the facts and reasons discussed above, the appeal bearing No. APL/38/KLK/2026 filed by the Revenue have no merit, hence dismissed. The parties shall bear their own cost.

The order is pronounced in the open court in presence of the authorized representatives of the parties. The Registry is directed to upload the Final Order on the portal immediately.

(Shri Sunil Kumar Singh)
Member – Judicial

(Shri Bijoy Kumar Kar)
Member – Technical

Dated: