GSTAT

Court No. Court I

APL/35/KLK/2026

The Commissioner of CGST & Central Excise,

Kolkata North Commissionerate,

GST Bhawan, 180, Shantipally, Rajdanga Main Road,

Kolkata-700107

..... **Appellant**

Versus

M/s Kothari Processors Private Limited, 2nd, 29, Mohata House, Strand Road, Burrabazar, Kolkata, West Bengal- 700061

GSTIN/Temporary ID /UIN-19AABCK9658E1Z6 **Respondent**

Counsel for Appellant

SHRI VIKESH KUMAR, SUPERINTENDENT, CGST, AUTHORISED REPRESENTATIVE

Counsel for Respondent

Ms. ANSHUMA RUSTAGI, CA, AUTHORIZED REPRESENTATIVE

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 : Yes

Order reference no. : **Date of order : 24-09-2026**

1.	GSTIN/Temporary ID/UIN - 19AABCK9658E1Z6	
2.	Appeal Case Reference no. - APL/35/KLK/2026	Date – 10.03.2026

3.	Name of the appellant – ATANU MONDAL	
4.	Name of the respondent - M/s Kothari Processors Private Limited	
5.	Order appealed against –	
	(5.1) Order Type – Appeal Order	
	(5.2) Ref Number – ZD190525003123T	Date – 02.05.2025
6.	Personal Hearing – 11.06.2026, 02.07.2026, 24.07.2026 & 14.08.2026	
7.	Status of Order under Appeal - Remanded – Order under Appeal is Remanded	

8.	Order in brief – The matter is remanded back to the first Appellate Authority.
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 favour of taxpayer.	The matter is remanded back to the first Appellate Authority.

Place

:KOLKATA

Date : 24-09-

2026

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/35/KLK/2026

The Commissioner of CGST & Central Excise,

Kolkata North Commissionerate

GST Bhawan, 180, Shantipally, Rajdanga Main Road,

Kolkata – 700107

…….APPELLANT

Versus

M/s Kothari Processors Private Limited, 2nd, 29, Mohata House, Strand Road, Burrabazar, Kolkata, West Bengal-700061

GSTIN/Temporary ID /UIN-19AABCK9658E1Z6

……RESPONDENT

In appearance :

For the appellant: Shri Vikesh Kumar, Superintendent, CGST

For the respondent : Ms. Anshuma Rustagi, CA

CORAM :

Hon'ble Shri Sunil Kumar Singh : Judicial Member

Hon'ble Shri Bijoy Kumar Kar : Technical Member

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Final Order

Date of Hearing : 14.08.2026

Date of Order : 24-09-2026

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. 255/CGST/Kol-North/2025 dated 24.04.2025 passed by the Additional Commissioner (Appeals), Kolkata Appeal 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 Kothari Processors Private Limited under sub-section (1) of Section 107 of the CGST Act against the Order-in-Original bearing Ref No. ZD190824024676Z dated 12.08.2024 passed by the Assistant Commissioner of CGST and Central Excise, BBD Bag I Division, Kolkata North Commissionerate.

2. The petitioner stated that M/s Kothari Processors Private Limited (respondent herein) having GST

Registration No. 19AABCK9658E1Z6 situated at 2nd, 29, Mohata House, Strand Road, Burrabazar, Kolkata – 700 061 is engaged in the business of dyeing of fabrics on job work basis which attract GST @ 5%. The respondent in the process of carrying out his job work procures several inputs on which GST is charged at the rates of 5%/12%/18% (as applicable during relevant period) and on certain rare occasions at 28% also. The Revenue further stated that the respondent claimed refund of accumulated Input Tax Credit (in short 'ITC') under Section 54(3)(ii) of the CGST Act, 2017 arising due to inverted tax structure on regular basis.

3. The Revenue (petitioner) have further disclosed that the respondent had filed for refund of accumulated ITC under the inverted tax structure for an amount of Rs.11,67,683/- for the month of January 2023 with the jurisdictional Officer i.e., the Assistant Commissioner of CGST and Central Excise, BBD Bag I Division, Kolkata North Commissionerate (in short 'the original adjudicating authority' or 'the 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 No. ZD190724005402N dated 03.07.2024 to the respondent. The respondent has furnished reply to the SCN on 19.07.2024. The OAA after following the due process of law has rejected the refund claim vide Refund Sanction Order bearing Ref No. ZD1908240244 97Z dated 12.08.2024 (in short 'the impugned order') on the grounds that the OAA is not satisfied with the reply submitted by the respondent as mentioned in the SCN. Being aggrieved by the impugned order, the respondent preferred appeal before the first Appellate Authority vide Ref No. AD191024008380K dated 23.10.2024. 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. 255/CGST/Kol-North/2025 dated 24.04.2025 (in short 'the impugned OIA').

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

5.1 That the first Appellate Authority has wrongly taken the value of outward supplies falling under the tax rate of 5% only, whereas the respondent is also engaged in the supply of goods that attract 18% GST. In support of this claim, the Revenue contends that the same is evident from the perusal of e-invoices details as available on the portal wherein it is found that the respondent has issued three outward supply invoices attracting GST @ 18%. However, the first Appellate Authority has considered outward supplies attracting GST @ 5% only for the purpose of refund calculation. Due to this the respondent has got excess refund of Rs.71,475/- as the adjusted turnover is taken as Rs.4,84,63,857/- (5% supplies) instead of Rs.4,91,52,037/- (5% and 18% supplies). The refund under the inverted structure under Section 54(3)(ii) of the CGST Act, 2017 read with Rule 89(5) of the CGST Rules, 2017 depends mainly on the identification of the correct value of inverted supply of goods and services i.e., the aggregate turnover. Maximum refund under the said rule is calculated based on a formula as prescribed under Rule 89(5) of the CGST Rules, 2017. Hence, due to the wrong adoption of the value of aggregate turnover for the purpose of formula,

the respondent has been sanctioned excess refund of Rs.71,475/-.

5.2 Apart from this ground alone, there are no other ground raised by the Revenue in the present appeal.

6. Shri Vikesh Kumar, Superintendent, CGST, Authorized Representative of the Revenue appeared through virtual mode and argued the case at length. He reiterated the facts and submissions which are already submitted in the Grounds of Appeal filed by the Revenue.

7. We have heard the arguments of the petitioner on the point of admission. The appeal was admitted and accordingly notice was issued to the respondent. The respondent filed his authorization and appeared through Ms. Anshuma Rustagi, CA, the Authorized Representative. The authorized representative has filed her Cross Objection against the instant appeal is as under:

7.1 With respect to the issue of outward supplies attracting GST @ 18% as contested by the Revenue, the

respondent submits that they have not dealt in 18% tax rate goods, their final product attracts GST @ 5% only. It is further mention that the same view is also taken by the first Appellate Authority and rightly allowed the refund of Rs.11,67,682/- as per the formula prescribed under the Rule 89(5) of the CGST Rules, 2017. The Revenue is contesting that the respondent has been sanctioned excess refund of Rs.71,475/- due to non-consideration of goods taxable @ 18% which is factually incorrect as their final product attracts GST @ 5% only. The respondent further submitted that the first Appellate Authority has rightly appreciated the factual position and no legal or factual error has been demonstrated by the Department warranting interference and hence prayed for the dismissal of the Revenue's appeal.

8. We have carefully heard the arguments of parties and minutely examined the records. During the course of argument, the parties have confined their arguments regarding the refund calculation as prescribed under Rule 89(5) of the CGST Rules, 2017. We are of the view that the main issue arises from the argument of the parties in this appeal is to find out the correct value of inverted

rated supply of goods and services and aggregate turnover for the purpose of refund calculation as prescribed under Rule 89(5) of the CGST Rules, 2017. For brevity, we reproduce the relevant portion of formula contained in Rule 89(5) of the CGST Rules, 2017 as below:

"89(5) In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:-

{(Turnover of inverted rated supply of goods and services × Net ITC) ÷ Adjusted Total Turnover} – {Tax payable on such inverted rated supply of goods and services × (Net ITC ÷ ITC availed on inputs and input services)}

Explanation: *- For the purposes of this sub-rule, the expressions -*

(a) --------- and

b)"Adjusted Total turnover" and "relevant period" shall have the same meaning as assigned to them in sub-rule (4).

(E) "Adjusted Total Turnover" means the sum total of the value of-

(a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and

(b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services,

excluding the value of exempt supplies other than zero-rated supplies during the relevant period."

On plain reading of the above formula, it is amply clear that the value of inverted rated supply of goods and services along with adjusted turnover are relevant to determine the correct value of admissible refund. The

Revenue is contesting that the respondent has issued three invoices @ 18% tax rate. However, the first Appellate Authority has not mentioned any such supplies and all the outward supplies are taken at 5% tax rate only. Further, the Revenue has not produced any evidence/documents of such outward invoices where GST was charged at 18%. Hence, it is not clear whether the respondent is dealt only in 5% tax rated goods or also in 18% tax rated goods. Without this issue being addressed, the correct refund amount cannot be ascertained. Hence, we are of the view that the matter be remanded back to the first Appellate Authority for determination of correct amount of inverted rated supply of goods and services, aggregate turnover and the admissible amount of refund under the inverted duty structure due to the respondent. It is further directed that the Appellant Department/ Revenue shall produce the relevant documents relating to 18% outward supplies before the first Appellate Authority, if any. The first Appellate Authority shall grant reasonable opportunity to both the parties before passing the reasoned order. The first Appellate Authority is directed to pass the order within three months from the receipt of copy of this order.

9. For the facts and reasons discussed above, the appeal bearing No. APL/35/KLK/2026 is remanded back to the first Appellate Authority for passing appropriate order/orders as directed. With the above direction, the appeal is accordingly disposed of. The parties shall bear their own cost. Copy of the order may be sent to the first Appellate Authority for necessary compliance.

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: 24-09-2026

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