GSTAT

Court No. Court II

APL/18/KLK/2026

The Commissioner of CGST & Central Excise,

Siliguri Commissionerate,

GST Bhawan, C.R. Bhawan, Haren Mukherjee Road,

Hakimpara, Siliguri, Darjeeling – 734 001

..... **Appellant**

Versus

M/s Rajshahi Banijya Private Limited, 1st Floor, Bishwakarma Weigh Bridge Building, Burdwan Road, Jalpanimore, Siliguri – 734 005

GSTIN/Temporary ID /UIN-19AACCR3475M1ZU **Respondent**

Counsel for Appellant

SHRI DULAL SINHA RAY, SUPERINTENDENT, CGST, AUTHORISED REPRESENTATIVE

Counsel for Respondent

SHRI S N DHURIA, Ld. ADVOCATE

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 - 19AACCR3475M1ZU	
2.	Appeal Case Reference no. -	Date – 05.02.2026

	APL/18/KLK/2026	
3.	Name of the appellant – SANTOSH JAISWAL	
4.	Name of the respondent - M/s Rajshahi Banijya Private Limited	
5.	Order appealed against –	
	(5.1) Order Type – Appeal Order	
	(5.2) Ref Number – 172/SLG-GST/2022-23	Date – 17.02.2023
6.	Personal Hearing – 19.05.2026, 12.06.2026, 03.07.2026, 24.07.2026 & 07.08.2026	
7.	Status of Order under Appeal – Order under Appeal is Disposed with modification	

8.	Order in brief - Impugned OIA is upheld with modification and the Revenue appeal is disposed.
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/18/KLK/2026

The Commissioner of CGST & Central Excise,

Siliguri Commissionerate,

GST Bhawan, C.R. Bhawan, Haren Mukherjee Road,

Hakimpara, Siliguri, Darjeeling – 734 001

…….APPELLANT

Versus

M/s Rajshahi Banijya Private Limited, 1st Floor, Bishwakarma Weigh Bridge Building, Burdwan Road, Jalpanimore, Siliguri – 734 005

GSTIN/Temporary ID /UIN-19AACCR3475M1ZU

……RESPONDENT

In appearance :

For the appellant: Shri Dulal Sinha Ray, Superintendent, CGST

For the respondent: Shri S N Dhuria, Ld. Advovate.

CORAM :

Hon'ble Shri Sunil Kumar Singh : Judicial Member

Hon'ble Shri Bijoy Kumar Kar : Technical Member

Final Order

Date of Hearing : 07.08.2026

Date of Order : 07.10.2026

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. 172/SLG-GST/2022-23 dated 17.02.2026 passed by the Additional Commissioner (Appeals), CGST & CX, Siliguri Appeal Commissionerate (in short 'the first Appellate Authority'). The said appeal has been filed before the first Appellate Authority by the Revenue i.e., the Assistant Commissioner of GST & Central Excise, Siliguri Division, Siliguri Commissionerate in the capacity of Authorized Officer under sub-section (3) of Section 107 of the CGST Act against the Order-in-Original bearing Ref No. ZX1911210214435 dated 18.11.2021 passed by the Assistant Commissioner of CGST and Central Excise, Siliguri Division, Siliguri Commissionerate.

2. The respondent i.e., M/s Rajshahi Banijya Private Limited (19AACCR3475M1ZU) situated at 1st Floor, Bishwakarma Weigh Bridge Building, Burdwan Road, Jalpani more, Siliguri – 734 005 is engaged in the supply of tea falling under HSN 0902 which attract GST @ 5% both in the domestic market as well as the international market i.e., exporting the goods without payment of tax. In the present case, the respondent is claiming refund of accumulated Input Tax Credit (in short 'ITC') for domestic clearance of goods under inverted tax structure as per Section 54(3)(ii) of the CGST Act, 2017 on regular basis.

3. The Revenue (petitioner herein) have disclosed that the respondent has filed for refund of accumulated ITC due to inverted tax structure for an amount of Rs.4,32,537/- for the period from April 2021 to June 2021 with the jurisdictional Officer i.e., the Assistant Commissioner of CGST and Central Excise, Siliguri Division, Siliguri Commissionerate (in short 'the original adjudicating authority' or 'OAA').

4. After the scrutiny of the said refund claim, the OAA has found the refund claim in order accordingly sanctioned refund of entire amount of Rs.4,32,537/- vide Refund Sanctioning Order in form GST RFD 06 vide Ref

No. ZX1911210214435 dated 18.11.2021 (in short 'the impugned order'). The impugned order was subject to the review by the Commissioner of GST & Central Excise, Siliguri Commissionerate (in short 'the review authority') and found that the same is not legal and accordingly the Reviewing authority has directed the OAA i.e., the Assistant Commissioner of GST & Central Excise, Siliguri Division, Siliguri Commissionerate to file an appeal as an authorized officer before the first Appellate Authority. In pursuance of the orders given by the reviewing authority, the OAA as an authorized officer preferred an appeal before the first Appellate Authority vide Ref No. GAPPL/ADC/GSTD/215/2022/Slg-Appeal dated 13.05.2022. However, the first Appellate Authority has allowed the refund claim filed by the respondent and rejected the Revenue's appeal vide Order-in-Appeal No. 172/SLG-GST/2022-23 dated 17.02.2023 (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 only on one ground detailed as below:

5.1 That the first Appellate Authority has committed an error by excluding the credit note amounting to Rs.12,04,575/- issued during the material period i.e., from April 2021 to June 2021 from adjusted total turnover for the purpose of refund calculation as prescribed under Rule 89(5) of the CGST Rules, 2017 by relying on the provisions contained in sub-sections (1) and (2) of Section 34 of the CGST Act, 2017 and clause (h) of sub-rule (1A) of Rule 53 of the CGST Rules, 2017. Further, the Revenue contends that nowhere it is claimed that the relevant credit notes were actually related to the sale invoices issued during the material period i.e., from April 2021 to June 2021. The Revenue also contends that the subject credit notes are related to certain unspecified invoices of previous tax periods as it is not clear against which sale invoices the said credit notes were issued. Hence, the first Appellate Authority has failed to correctly consider the facts and circumstances of the case and wrongly allowed the adjustment of credit notes to arrive the value of adjusted total turnover for the purpose of refund calculation as prescribed under Rule 89(5) of the CGST Rules, 2017.

5.2 Apart from the above one ground, there are no other grounds of appeal raised by the Revenue.

6. Shri Dulal Sinha Ray, 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 Shri S N Dhuria, Ld. Advocate. The Ld. Advocate has filed his Cross Objection against the instant appeal and is as under:

7.1 The respondent contended in respect of credit notes that the first Appellate Authority has rightly concluded that the credit notes do not form part of the taxable supplies and therefore must be adjusted while computing adjusted total turnover as prescribed in Rule 89(5) of the CGST Rules, 2017 for the purpose of refund calculation. Further, the respondent stated that the total value of credit notes of Rs.12,04,575/- is divided into two parts i.e., 1) Credit notes amounting to Rs.2,00,558/- was pertaining to the previous period i.e., prior to the material period of refund but the same are filed within the

permissible time limit as contained in Section 34 of the CGST Act, 2017 and 2) Credit notes amounting to Rs.10,04,017/- were issued against tax invoices relating to the period April 2021 to June, 2021. Further, the respondent contends that once the credit note is issued and disclosed in the GST returns in accordance with Section 34, the taxable value stands reduced to such extent. The respondent also contends that if the credit notes are ignored while calculating the adjusted total turnover, the turnover would stand artificially enhanced despite the taxable value having already been reduced by way of issuance of credit notes. Hence, in light of the above submissions, the respondent has prayed for dismissal of the appeal filed by the Revenue.

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 consideration of credit notes issued under Section 34 of the CGST Act, 2017 in the value of adjusted total turnover for the purpose of refund calculation as prescribed under Rule 89(5) of the CGST Rules, 2017. With respect to the division of credit notes for an amount of Rs.2,00,558/- pertaining to the previous period and Rs.10,04,017/- for the material period as explained in

para 7.1 above, we could not find such division. However, on perusal of GSTR 1 Voucher register submitted along with the CA Certificate, we find that credit notes amounting to Rs.1,01,510/- are pertaining to the Financial Year 2019-20 and balance credit notes amounting to Rs. 11,03,065/- are pertaining to the refund period i.e., April 2021 to June 2021. The main contention of the Revenue is that the first Appellate Authority has excluded the value of the said credit notes issued in the adjusted total turnover for the purpose of refund calculation. However, the contention of the Revenue that it is not clear that the credit notes which were issued are related to which period as the invoice numbers are not mentioned against the said credit notes. On perusal of the OIA, it is was found that first Appellate Authority have discussed the issue in detail and have observed that the deduction of credit note amount from the outward taxable supply for the purpose of adjusted total turnover. Further, the first Appellate Authority has also relied upon the certificate issued by the Chartered Accountant namely Prabhakar Pal & Associates, FRN 332626E vide UDIN 23055067BGRXCT3743 dated 19.01.2023 wherein it was certified that the respondent has issued credit notes amounting to Rs.12,04,575/-

during the period from April 2021 to June 2021. We also perused the CA certificate issued by Prabhakar Pal & Associates. On perusal of the said certificate along with other related documents, we have found that the entries mentioned in the said Certificate involving Credit notes amounting to Rs. 12,04,575/- are matching with GSTR 1 statements filed for the period from April 2021 to June 2021 (April 2021 – Rs.7,14,444/-, May 2021 – Rs.1,29,239/- and June 2021 – Rs.3,60,890/-). We have also examined GSTR 1 voucher register along with the CA Certificate submitted by the respondent and found that the major credit notes for an amount of Rs.11,03,065/- issued were relating to the invoices raised during the period from April 2021 to June 2021. However, there are some credit notes amounting to Rs.1,01,510/- which were pertaining to the financial year 2019-20 have actually been issued during June, 2021. The details of such credit notes are detailed as under:

Credit Note No.	Credit Note Date	Credit Note amount (Rs.)	Invoice Number	Invoice Date
RBCNJUN-2/2122	16 Jun 2021	57,220	RB/C1920/MAR 53	31 Mar 2020

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RBCNJ UN-3/2122	16 Jun 2021	28,610	RB/C1 920/OCT 40	26 Oct 2019
RBCNJ UN-4/2122	16 Jun 2021	15,680	RB/C1 920/MAR 43	31 Mar 2020
TOTAL		**1,01,510**		

So, the argument advanced by the Revenue regarding the period for which the credit notes were issued does not inspire confidence and same cannot be relied. It is also a fact that when a credit note is issued due to rejection of supply, the taxable turnover needs to be adjusted since the returned goods are no more part of the supply. 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(4) of the CGST Rules, 2017.

However, from the above table, we also find that three credit notes amounting to Rs.1,01,510/- were issued during the month of June 2021 whereas the corresponding invoices are pertaining to the Financial Year 2019-20. We find it appropriate to mention here the provisions contained in sub-section (2) of Section 34 of the CGST Act, 2017 as under:

*"34(2) Any registered person who issues a credit note in relation to a supply of goods or services or both shall declare the details of such credit note in the return for the month during which such credit note has been issued **but not later than [3][the thirtieth day of November] following the end of the financial year** in which such supply was made, or the date of furnishing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in such manner as may be prescribed:*

**3. Substituted (w.e.f. 1st October, 2022 vide Notification No. 18/2022 - CT dated 28.09.2022.) by s. 102 of The Finance Act 2022 (No. 6 of 2022). for "September".*

On plain reading of the above provision, it can be inferred that the statute prescribes a time limit for issuing credit note(s). As the material period is pertaining to the Financial Year 2019-20, the respondent is permitted to issue credit notes within 30th September, 2020. However, the respondent has issued the said credit notes amounting to Rs.1,01,510/- pertaining to invoices raised during the Financial Year 2019-20 only in the month of June, 2021. We find that the statute does not permit the

issuance of credit notes beyond the permissible time limit. Accordingly, we are of the view that the credit notes amounting to Rs.1,01,510/- are not liable to be excluded from the adjusted total turnover. We also find that as per the refund application filed in the Form GST RFD 01 by the respondent, turnover of inverted rated supply of goods and services is Rs.2,02,51,840/- (1), tax payable on such inverted rated supply of goods and services is Rs.10,12,592/-(2), adjusted total turnover is Rs.5,94,51,193/-(3) and Net ITC except CESS is Rs.42,42,313/-(4). However, as the credit notes amounting to Rs.1,01,510/- are not issued within the permissible time limit, same cannot be excluded from the adjusted total turnover and should be part of the adjusted total turnover. Hence, the actual adjusted total turnover for the purpose of refund calculation should be Rs. 5,95,52,703/- (Rs.5,94,51,193/- + Rs.1,01,510/-). Accordingly, as per the formula prescribed in Rule 89(5) for arriving maximum refund amount to be claimed should be modified. As per the GST RFD 01, maximum refund amount to be claimed except CESS is Rs.4,32,537/-. However, due to change in adjusted total turnover, the modified maximum amount of refund (5) to be sanctioned is as follows. The said formula is

5=[(1X4)/3-2].

Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC/ Adjusted Total Turnover} - [{tax payable on such inverted rated supply of goods and services}]

Maximum refund amount (5) =[(1X4)/3-2] = [(2,02,51,840/- X 42,42,313/-)/5,95,52,703/-) - 10,12,592/-] = Rs. 4,30,073/-

However, as per the refund application the respondent has claimed an amount of Rs.4,32,537/- only which is above the maximum permissible refund of Rs.4,30,073/- . Hence, we find that the refund claim of the respondent needs to be modified to Rs.4,30,073/- as the same is eligible as prescribed under Rule 89(5) of the CGST Rules, 2017. We also find that the first Appellate Authority has already allowed the refund of Rs.4,32,537/- as the same is legally tenable. However, the first Appellate Authority has failed to modify the refund amount to Rs.4,30,073/- which now we intend to do so. In the circumstances, the order of the first Appellate Authority is modified to the extent of refund of Rs.4,30,073/- instead of Rs.4,32,537/-. The OAA is

directed to recover excess refund paid to the respondent which is Rs.2,464/-.

9. For the facts and reasons discussed above, the appeal bearing No. APL/18/KLK/2026 filed by the Revenue have no merit, hence dismissed with modification in the order of the first Appellate Authority. 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:

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