

GSTAT

Court No. Court II

APL/112/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 Baniya 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 – 01.12.2025

	APL/112/KLK/2026	
3.	Name of the appellant – SANTOSH JAISWAL	
4.	Name of the respondent - M/s Rajshahi Baniya Private Limited	
5.	Order appealed against –	
	(5.1) Order Type – Appeal Order	
	(5.2) Ref Number – 175/SLG-GST/2022-23	Date – 21.02.2023
6.	Personal Hearing – 10.06.2026, 01.07.2026, 22.07.2026, 28.07.2026, 12.08.2026 & 29.09.2026	
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

**IN THE GOODS AND SERVICES TAX APPELLATE
TRIBUNAL**

KOLKATA BENCH

COURT NO.1

Appeal No.: APL/112/KLK/2026

The Commissioner of CGST & Central Excise,
Siliguri Commissionerate,
GST Bhawan, C.R. Bhawan, Haren Mukherjee Road,
Hakimpara, Siliguri, Darjeeling – 734 001

.....APPELLANT

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M/s Rajshahi Baniya 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 : 29.09.2026

Date of Order : 14.10.2026

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. 175/SLG-GST/2022-23 dated 21.02.2023 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 respondent i.e., M/s. Rajshahi Baniyya Private Limited under sub-section (1) of Section 107 of the CGST Act against the Order-in-Original bearing Ref No. ZD1911220109958 dated 11.11.2022 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, Jalpanimore, 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') due to inverted tax structure under Section 54(3)(ii) of the CGST Act, 2017 on regular basis in respect of domestic supplies.

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.7,20,281/- under the head of CGST for the period from October 2021 to March 2022 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 certain discrepancies and issued Show Cause

Notice (in short 'SCN') in Form GST RFD 08 vide Ref No. ZB1910220222024 dated 20.10.2022. The respondent submitted his reply in the form GST RFD 09 vide Ref No. ZB1910220222024 dated 21.10.2022. The OAA after due process of law has modified and sanctioned an amount of Rs.6,47,803/- out of the total refund claim for Rs. Rs.7,20,281/-. Further, the OAA has rejected refund to the tune of Rs.72,477/- (CGST) vide Refund Sanctioning Order issued in the form GST RFD 06 vide Ref No. ZD1911220109958 dated 11.11.2022 (in short 'the impugned order'). Being aggrieved by the impugned order, the respondent has preferred an appeal before the first Appellate Authority vide Ref No. AD1911220094958 dated 22.11.2022. 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. 175/SLG-GST/2022-23 dated 21.02.2023 (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 on single ground detailed as below:

5.1 That the first Appellate Authority has committed an error by excluding the credit notes amounting to Rs.39,58,490/- issued during the material period i.e., from October 2021 to March 2022 from Gross 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 October 2021 to March 2022. The Revenue also contended that the subject credit notes are related to certain unspecified invoices of previous tax periods. 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 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. Ld. Advocate has filed his Cross Objection in 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 contended that once the credit note is issued and disclosed in the GST returns in accordance with Section 34, its effect forms part of the taxable value for the relevant period. The respondent also contended 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 to dismiss the appeal filed by the Revenue.

8. We have carefully heard the arguments of the 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. 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 in GSTR 1 returns, original invoice details against which the said credit notes were issued have been left blank by the respondent. On perusal of the OIA, it is noticed 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, M No. 055067, FRN 332626E vide UDIN 23055067BGRXDD1845 dated 08.02.2023 wherein it was certified that the respondent has issued credit notes amounting to Rs.39,58,490/- during the period from October 2021 to March 2022. We also perused the CA certificate issued by Prabhakar Pal & Associates. On perusal of the said certificate along with other related documents, we have noticed that the entries mentioned in the said Certificate involving Credit notes amounting to Rs. 39,58,490/- are matching with GSTR 1 statements filed for the period from October 2021 to March 2022. We have also examined GSTR 1 voucher register along with the CA Certificate submitted by the respondent and found that all the credit notes have been issued during the period from October 2021 to March 2022 well within the permitted time limit under Section 34(2) of the CGST Act, 2017.

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 gross turnover of the supply for the purpose of calculation of refund under Rule 89(5) of the CGST Rules, 2017. Hence, we are of the view that the first Appellate Authority has rightly allowed the appeal filed by the respondent after taking all the aspects into account.

9. For the facts and reasons discussed above, we are not inclined to interfere with the order of the first Appellate Authority. The appeal bearing No. APL/112/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.

Dated:

