GSTAT

State Bench Lucknow

Court No. Court I

APL/73/LCK/2026

HEMLATA JAISWAL .....Appellant

Versus

PACIFIC LEATHER P. LTD., DIRECTOR, 490 D DEFENCE COLONY KANPUR JAJMAU UPKNN 208010 .....Respondent

Quorum

Hon'ble Santosh Kumar Srivastava, Member(Judicial)
Hon'ble Arvind Kumar, Member (Technical)

Counsel for Appellant
MR. RUDRA SHEKHAR RAI, DEPUTY COMMISSIONER SGST

Counsel for Respondent
MR. SWAYAMBHAV MANU, ADVOCATE

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. : ZA090371026000274H **Date of order :** 13/10/2026

1.	GSTIN/Temporary ID/UIN -	
2.	Appeal Case Reference no. - APL/73/LCK/2026	Date - 16/04/2026
3.	Name of the appellant - HEMLATA JAISWAL , hemlatajswal@gmail.com , 7235001261	
4.	Name of the respondant - 1. PACIFIC LEATHER P. LTD. , AGNIAMIT77@GMAIL.COM , 7705011248	
5.	Order appealed against -	
	(5.1) Order Type - Refund Order	
	(5.2) Ref Number - 263	Date - 05/07/2021
6.	Personal Hearing - 13/10/2026 14/09/2026 31/08/2026 19/08/2026 11/08/2026	

7.	Status of Order under Appeal - Reject - Order under Appeal is annulled
8.	Order in brief - M/s Pacific Leather Pvt. Ltd., Kanpur, claimed a refund of accumulated Input Tax Credit (ITC) of Compensation Cess paid on coal used as fuel in the manufacture of leather products, which were not subject to Compensation Cess. The Proper Officer rejected the six refund claims on the ground that the accumulated credit was not refundable under the inverted tax structure category. However, the First Appellate Authority allowed the appeals vide Order-in-Appeal dated 05.07.2021. Aggrieved by the said order, the Department filed six appeals under Section 112(3) of the CGST/UPGST Act, 2017, contending that the admissibility of ITC does not automatically entitle a taxpayer to a refund under Section 54(3) of the CGST Act, 2017. The Tribunal held that the entitlement to avail ITC and the entitlement to obtain a refund are distinct matters. Since the Respondent had not established that the disputed claims satisfied the statutory conditions for refund, particularly in respect of domestic outward supplies, the First Appellate Authority's order was found unsustainable.

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	Appellate authority has been allowed the refund of CESS ITC against the Local Sale due to Inverted Tax Structure	Departmental appeal is allowed.

Place :LUCKNOW

Date : 14.10.2026

Signature

LUCKNOW ANAMIKA DEVI

Designation : Stenographer/Law researcher

Jurisdiction :Lucknow

1. Brief Facts of the Case

1.1. The present Six Appeals have been filed by the Department under Section 112(3) of the CGST/UPGST Act, 2017, against Order-in-Appeal dated 05.07.2021, passed by the Additional Commissioner, Grade-II (Appeal), Commercial Tax, Kanpur, whereby the First Appellate Authority allowed the appeal filed by M/s Pacific Leather Pvt. Ltd., having GSTIN 09AABCP7389M1ZL, situated at 197/189, Ram Rai Sarai, Jajmau, Kanpur, Uttar Pradesh, and granted relief in respect of the refund claims relating to accumulated Input Tax Credit of Compensation Cess as tabulated below:-

Table I

Sl.No.	Appeal Filing Number	Case NO.	ARN Number	Refund Sanction/Rejection Order	Date of Order	Amount (Rs.)	Period
1	2026109101000110	APL/73/LCK/2026	AA090920091594U	ZD091120004030H	6-Nov-2020	15040	Jun-18
2	2026109101000120	APL/66/LCK/2026	AA091220013697D	ZD090121003 2171	5-Jan-2021	11704	Mar-19
3	2026109101000126	APL/70/LCK/2026	AA090920142118A.	ZD091120014 455V	21-Nov-2020	19463	Sep-18
4	2026109101000129	APL/69/LCK/2026	AA090920135731 9	ZD091120014 439P	21-Nov-2020	10321	Apr-June-18
5	2026109101000130	APL/68/LCK/2026	AA091020148838 5	ZD091120017 609L	24-Nov-2020	13010	Dec-18
6	2026109101000131	APL/67/LCK/2026	AA091220007288I	ZD090121003 168W	5-Jan-2021	2446	Feb-19

Since the issue, factual circumstances, and grounds of appeal are identical across all six cases, and they involve the same appellant, this common order addresses all appeals.

1.2. The facts of the case are that M/s Pacific Leather Pvt. Ltd. is engaged in the manufacture and sale of leather products. During the manufacturing process, coal is used as fuel for operating boilers and generating the energy required for production. Compensation Cess is payable on the purchase of coal, whereas the finished leather products are not subject to Compensation Cess. Consequently, the firm accumulated unutilised Input Tax Credit of Compensation Cess paid on coal purchased for its manufacturing activities.

1.3. For the tax period as mention in **Table I** above, the Respondent filed a refund application under the inverted tax structure category towards accumulated Compensation Cess ITC. Upon examination, the Proper Officer issued a notice proposing rejection of the said claim on the

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ground that refund of Compensation Cess ITC was not admissible against domestic outward supplies under the inverted tax structure category.

1.4. In response, the firm submitted its explanation relying upon Circular No. 45/19/2018-GST dated 30.05.2018 and contended that Compensation Cess paid on coal used in the manufacturing process constituted eligible Input Tax Credit. However, the Proper Officer, after examining the explanation and the provisions of Circular No. 45/19/2018-GST dated 30.05.2018 and Circular No. 125/44/2019-GST dated 18.11.2019, observed that refund of accumulated Compensation Cess ITC was permissible in the specified circumstances relating to zero-rated supplies and that the claim arising from domestic supplies of leather products was not admissible. Accordingly, the Deputy Commissioner, Commercial Tax, Sector-20, Kanpur, rejected the refund claims.

1.5. Being aggrieved by the aforesaid order, the firm preferred First Appeals before the Additional Commissioner, Grade-II (Appeal), Commercial Tax, Kanpur. The First Appellate Authority, after considering the facts, submissions and relevant statutory provisions, observed that Compensation Cess paid on coal used in the manufacturing process constituted eligible Input Tax Credit and that such credit was not restricted under Section 17(5) of the CGST Act, 2017. Accordingly, the First Appellate Authority allowed the appeals vide Order-in-Appeal dated 05.07.2021.

1.6. Being dissatisfied with the aforesaid Order-in-Appeal, the Department has preferred the present six Appeals before this Tribunal, contending that the First Appellate Authority erred in allowing refund of Compensation Cess ITC against domestic outward supplies under the inverted tax structure category. The Department has submitted that the admissibility of Input Tax Credit and entitlement to its refund are governed by distinct statutory provisions and that the conditions prescribed under Section 54(3) of the CGST Act, 2017, were not properly appreciated by the First Appellate Authority. Accordingly, the Department has prayed for setting aside the impugned Order-in-Appeal and restoration of the original Refund Rejection Orders passed by the Proper Officer.

2. Questions of Law

The following questions arise for consideration and determination in the present Second Appeal:

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2.1. Whether the First Appellate Authority was justified in allowing the refund of accumulated Input Tax Credit of Compensation Cess paid on coal used in the manufacture of leather products, where the outward supplies were domestic supplies not liable to Compensation Cess.

2.2. Whether the admissibility of Input Tax Credit under Section 16 of the CGST Act, 2017, read with Section 11(2) of the Goods and Services Tax (Compensation to States) Act, 2017, automatically entitles a registered person to refund of such credit under Section 54(3) of the CGST Act.

2.3. Whether accumulation of Compensation Cess ITC on account of the absence of Compensation Cess liability on outward supplies can, by itself, be treated as an inverted tax structure qualifying for refund under Section 54(3)(ii) of the CGST Act.

2.4. Whether the First Appellate Authority correctly interpreted Circular No. 45/19/2018-GST dated 30.05.2018 and Circular No. 125/44/2019-GST dated 18.11.2019 while allowing the disputed refund claim.

3. Grounds of Appeal

3.1. The Appellant-Department has challenged the impugned Order-in-Appeal on the ground that the First Appellate Authority erred in allowing refund of Compensation Cess ITC under the inverted tax structure category without properly examining the conditions prescribed under Section 54(3) of the CGST Act, 2017.

3.2. The Appellant has contended that the refund of unutilised Input Tax Credit is not an unrestricted entitlement and is governed by the specific statutory conditions prescribed under Section 54(3). Merely because Input Tax Credit has accumulated in the electronic credit ledger, it cannot be presumed that the registered person is automatically entitled to refund of such accumulated credit.

3.3. The Appellant has further stated that the Respondent was engaged in the manufacture and domestic sale of leather products, which were not liable to Compensation Cess. The accumulated Compensation Cess ITC arose on account of the purchase of coal used as fuel in the manufacturing process. However, the Respondent failed to establish that such accumulation satisfied the statutory requirements for refund under the inverted tax structure provisions.

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3.4. The Appellant has submitted that Section 11(2) of the Goods and Services Tax (Compensation to States) Act, 2017 specifically restricts utilisation of Compensation Cess ITC towards payment of Compensation Cess. The First Appellate Authority failed to examine the effect of this statutory restriction while allowing the refund.

3.5. The Appellant has also contended that Circular No. 45/19/2018-GST dated 30.05.2018 and Circular No. 125/44/2019-GST dated 18.11.2019 clarify the circumstances in which refund of accumulated Compensation Cess ITC may be claimed in relation to zero-rated supplies. The Respondent's claim related to domestic outward supplies, and the First Appellate Authority did not adequately distinguish the factual circumstances of the Respondent's case from those covered by the said circulars.

3.6. The Appellant has stated that the First Appellate Authority placed undue reliance upon Section 17(5) of the CGST Act. The fact that coal does not fall within the category of blocked credits under Section 17(5) may establish eligibility for availment of ITC, but it does not independently establish eligibility for refund under Section 54(3).

3.7. The Appellant has further submitted that the First Appellate Authority failed to appreciate the distinction between availment, utilisation and refund of Input Tax Credit. These are separate statutory concepts governed by different provisions and conditions. An amount may be legally available as ITC without necessarily becoming refundable in cash.

3.8. The Appellant has accordingly prayed that the impugned Order-in-Appeal dated 05.07.2021 be set aside and the original Refund Rejection Orders as mention in **Table I** above rejecting the disputed refund claims.

4. Submission of the Appellant

4.1. The learned Departmental Representative, appearing on behalf of the Appellant-Department, submitted that the impugned Order-in-Appeal is legally unsustainable as the First Appellate Authority allowed the refund without properly appreciating the scope and conditions of Section 54(3) of the CGST Act, 2017.

4.2. It was submitted that the Respondent's claim arose from Compensation Cess paid on coal used as fuel for the manufacture of leather products. Although such credit may be available in accordance with the relevant provisions, its refund must independently satisfy the requirements of the statutory refund mechanism.

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4.3. The Departmental Representative further submitted that Section 54(3) permits refund of unutilised Input Tax Credit only in the circumstances prescribed therein. The Respondent had filed the refund application under the inverted tax structure category, but the First Appellate Authority did not record a sufficient finding demonstrating how the accumulated Compensation Cess ITC qualified for refund under the said provision.

4.4. It was argued that the proviso to Section 11(2) of the Compensation Cess Act restricts utilisation of Compensation Cess ITC towards payment of Compensation Cess alone. Such restriction cannot be ignored merely because the Respondent has no outward Compensation Cess liability.

4.5. The Departmental Representative further submitted that the circulars relied upon by the Respondent primarily deal with refund of accumulated Compensation Cess ITC in the context of zero-rated supplies. The Respondent's case, however, concerned domestic outward supplies of leather products. Therefore, the circulars could not be applied without examining the material distinction between zero-rated supplies and domestic supplies.

4.6. Referring to the provisions laid down in Point No. 5 of Circular No. 45/19/2018-GST dated 30.05.2018, the appellant stated that a request for the grant of the said refund is not found to be admissible, as given below:

> 5. **Refund of unutilized input tax credit of compensation cess availed onon inputs in cases where the final product is not subject to the levy of compensation cess**: *5.1 Doubts have been raised whether an exporter is eligible to claim refund of unutilized input tax credit of compensation cess paid on inputs, where the final product is not leviable to compensation cess. For instance, cess is levied on coal, which is an input for the manufacture of aluminium products, whereas cess is not levied on aluminium products.*
>
> *5.2 In this regard, section 16(2) of the Integrated Goods and Services Tax Act, 2017 (IGST Act for short) states that, subject to the provisions of section 17(5) of the CGST Act, credit of input tax may be availed for making zero rated supplies. Further, as per section 8 of the Goods and Services Tax (Compensation to States) Act, 2017, (hereafter referred to as the Cess Act), all goods and services specified in the Schedule to the Cess Act are leviable to cess under the Cess Act; and vide section 11 (2) of the Cess Act, section 16 of the IGST Act is mutatis mutandis made applicable to inter-State supplies of*

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all such goods and services. Thus, it implies that all supplies ot such goods and services are zero rated under the Cess Act. Moreover, as section 17(5) of the CGST Act does not restrict the availment of input tax credit of compensation cess on coal, it is clarified that a registered person making zero rated supply of aluminium products under bond or LUT may claim refund of unutilized credit including that of compensation cess paid on coal.

5.3 Such registered persons may also make zero-rated supply of aluminium products on payment of integrated tax but they cannot utilize the credit of the compensation cess paid on coal for payment of integrated tax in view of the proviso to section 11(2) of the Cess Act, which allows the utilization of the input tax credit of cess, only for the payment of cess on the outward supplies. Accordingly, they cannot claim refund of compensation cess in case of zero-rated supply on payment of integrated tax.

4.7. Further, the GST Council, vide another Circular No. 125/44/2019-GST dated 18.11.2019, has also prescribed the following guidelines regarding claims for refund of Compensation Cess:

42. Doubts have been raised whethera registered person is eligible to claim refund of unutilized input tax credit of compensation cess paid on inputs, where the zero-rated final product is not leviable to compensation cess. For instance, cess is levied on coal, which is an input for the manufacture of aluminum products, whereas cess is not levied on aluminum products. In this context, attention is invited to section 16(2) of the Integrated Goods and Services Tax Act, 2017 (hereafter referred to as the "IGST Act") which states that, subject to the provisions of section 17(5) of the CGST Act, credit of input tax may be availed for making zero rated supplies. Further, section 16 of the IGST Act has been mutatis mutandis made applicable to inter-State supplies under the Cess Act vide section 11 (2) of the Cess Act. Thus, it implies that input tax credit of Compensation Cess may be availed for making zero-rated supplies. Further, by virtue of section clarified that a registered person making zero rated supply of aluminium products under bond or LUT may claim refund of unutilized credit including that of compensation cess paid on coal. Such registered persons may also make zero rated supply of aluminium products on payment of Integrated tax but they cannot utilize the credit of the compensation cess paid on coal for payment of Integrated tax in view of the proviso to section 11(2) of the Cess Act, which allows the utilization of the input tax credit of cess, only for the payment of cess on the outward supplies.

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4.8. It was also submitted that the First Appellate Authority had incorrectly treated the absence of a restriction under Section 17(5) as sufficient justification for granting the refund. The Department argued that Section 17(5) governs blocked Input Tax Credit and does not determine the circumstances in which accumulated credit is refundable.

4.7. The Departmental Representative accordingly prayed that the present Second Appeal be allowed, the impugned Order-in-Appeal be set aside and the original Refund Rejection Order be restored.

5. Submission of the Respondent

5.1. The learned Counsel appearing on behalf of the Respondent opposed the Departmental Appeal and submitted that the impugned Order-in-Appeal had been passed after proper appreciation of the facts and the applicable statutory provisions.

5.2. The Respondent submitted that it was engaged in the manufacture and sale of leather products and that coal was used as fuel for generating energy required for the manufacturing process. Compensation Cess was duly paid on the purchase of coal, and the corresponding ITC was lawfully availed.

5.3. It was submitted that Section 2(g) of the Compensation Cess Act recognises Compensation Cess charged on inward supplies as input tax. Further, Section 11(2) makes the relevant provisions of the CGST Act applicable to Compensation Cess, subject to the statutory conditions. Therefore, the Respondent was legally entitled to avail ITC of Compensation Cess paid on coal.

5.4. The Respondent contended that the proviso to Section 11(2) restricts utilisation of Compensation Cess ITC against liabilities other than Compensation Cess, but does not expressly prohibit refund of accumulated credit. It was argued that the restriction on utilisation should not be interpreted as a complete prohibition on refund.

5.5. It was further submitted that the outward supplies of leather products were not subject to Compensation Cess, resulting in continuous accumulation of Compensation Cess ITC. The Respondent claimed that such accumulation was attributable to the difference between the Compensation Cess levied on inward supplies and the absence of Compensation Cess on outward supplies.

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5.6. The Respondent further relied upon Section 54(3) of the CGST Act read with Section 11(2) of the Compensation Cess Act and submitted that the statutory refund provisions should be applied to Compensation Cess in the same manner as they apply to Central Tax, with necessary modifications.

5.7. The Respondent also contended that Section 17(5) of the CGST Act does not prohibit ITC of Compensation Cess paid on coal used in the manufacturing process. It was submitted that the First Appellate Authority had correctly recognised the admissibility of such credit.

5.8. The learned Counsel further submitted that Circular No. 45/19/2018-GST dated 30.05.2018 and Circular No. 125/44/2019-GST dated 18.11.2019 could not override the provisions of the parent statute.

5.9. In support of these submissions, the Respondent placed reliance upon several judicial pronouncements, including Patson Papers (P.) Ltd. v. Union of India, Atul Ltd. v. Union of India, Tata Steel Ltd. v. State of Jharkhand, Principal Commissioner, CGST & CX v. Joint Commissioner (Appeal), Central Tax, Baker Hughes Asia Pacific Ltd. v. Union of India and other decisions concerning the admissibility and refundability of accumulated Input Tax Credit.

5.10. The Respondent further submitted that the impugned Order-in-Appeal was a reasoned order passed by the competent First Appellate Authority and that no legal infirmity had been established by the Department warranting interference by this Tribunal.

5.11. The Respondent accordingly prayed that the Departmental Appeals be dismissed and the Order-in-Appeal dated 05.07.2021, allowing the refund claims be upheld.

6. Discussion and Findings

6.1 We have carefully considered the facts of the case, the grounds of appeal preferred by the Department, the submissions advanced by the learned Departmental Representative and the learned Counsel for the Respondent, the original Refund Rejection Orders and the impugned Order-in-Appeal dated 05.07.2021.

6.2 The dispute concerns the refunds claimed by M/s Pacific Leather Pvt. Ltd. towards accumulated Input Tax Credit of Compensation Cess paid on coal used as fuel in the manufacture of leather products during the tax period as mentioned above.

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6.3 The material facts indicate that Compensation Cess was paid on the purchase of coal, whereas the Respondent's finished leather products sold in the domestic market were not subject to Compensation Cess. The Respondent filed its refund applications under the inverted tax structure category.

6.4 we find that the central issue is whether the Respondent's claim satisfies the statutory requirements for refund of unutilised Cess under Section 54(3) of the CGST Act, 2017.

6.5 Statutory conditions under Section 54(3) of the CGST Act, 2017

Section 54(3) of the CGST Act, 2017, provides,

"(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period: Provided that no refund of unutilised input tax credit shall be allowed in cases other than— (i) zero rated supplies made without payment of tax; (ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies) ..."

6.6 The above provision establishes that refund of unutilised ITC is subject to the categories and conditions prescribed by the legislature. It does not confer an unrestricted right to a cash refund merely because credit has accumulated in the electronic credit ledger.

6.7 The Respondent's claim was made under the inverted tax structure category. Consequently, the Respondent was required to establish that the accumulation arose on account of the rate of tax on inputs being higher than the rate of tax on output supplies within the meaning of Section 54(3)(ii), and that the exclusion concerning nil-rated or fully exempt supplies did not apply.

6.8 In the present case, the accumulation of Compensation Cess ITC is attributed to the levy of Compensation Cess on coal and the absence of such levy on the finished leather products. However, the mere difference between the levy on an input and the absence of the same levy on an output does not, by itself, establish entitlement to refund under the inverted tax structure category. The relevant statutory test must be applied to the levy in respect of which the refund is claimed. Where the outward supply does not attract Compensation Cess, it is necessary to determine whether the outward supply is nil-rated or exempt for the purposes of that levy and whether the statutory exclusion under Section 54(3)(ii) of the CGST Act 2017 is attracted.

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6.9 The Respondent has contended that coal was used as fuel in the manufacturing process and that Compensation Cess paid on such coal constituted eligible ITC. Reliance has been placed upon Section 16 read with Section 17(5) of the CGST Act, 2017. However, we find that Section 16 prescribes the conditions for taking ITC, while Section 17(5) specifies categories of blocked credit. The fact that coal does not fall within the applicable blocked-credit provisions may support the Respondent's contention regarding the admissibility of the underlying credit.

6.10 The statutory scheme distinguishes between the availment of ITC, its utilisation towards payment of the relevant tax or cess, and the refund of unutilised credit. These matters are governed by separate statutory provisions. Therefore, even assuming that the Respondent was entitled to avail the Compensation Cess ITC on coal, it was still required to establish an independent entitlement to refund under Section 54(3).

6.11The First Appellate Authority placed undue reliance upon Section 17(5) without adequately examining the refund conditions. We find that the reasoning adopted in the impugned Order-in-Appeal is insufficient to sustain the grant of refund.

6.12 Section 11(2) of the Goods and Services Tax (Compensation to States) Act, 2017, provides for the application of specified provisions of the CGST Act and the IGST Act to Compensation Cess, subject to the conditions stipulated therein. The proviso to Section 11(2) states:

"Provided that the input tax credit in respect of cess on supply of goods and services leviable under section 8, shall be utilised only towards payment of said cess on supply of goods and services leviable under the said section."

6.13 The statutory restriction preserves the separate character of Compensation Cess ITC and confines its utilisation to payment of the corresponding Compensation Cess.

6.14 The Respondent has argued that this restriction concerns utilisation and does not expressly prohibit a refund. we accept that the utilisation restriction, by itself, should not be interpreted as an absolute prohibition on every refund claim. Nevertheless, the absence of an express prohibition does not create an independent right to refund in circumstances not authorised by the applicable statutory provisions.

6.15 The Respondent must establish that the claim falls within a refund category permitted by Section 54(3), read with the applicable provisions governing Compensation Cess. The inability

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to utilise Compensation Cess ITC against other tax liabilities cannot, by itself, confer an entitlement to a cash refund.

6.16 The First Appellate Authority did not adequately examine this distinction. The Department's objection is, therefore, sustainable to the extent that the impugned order treated the existence of eligible Compensation Cess ITC as sufficient justification for granting the refund.

6.17 Rule 89 of the CGST Rules, 2017, prescribes the procedure for filing refund applications and the supporting particulars required for processing refund claims. Rule 89(5), as applicable to the relevant period, provides the formula for determining the maximum refund of unutilised ITC in cases of accumulation on account of an inverted tax structure.

6.18 The rule operates within the statutory framework of Section 54(3). It does not independently create a substantive right to refund where the conditions of the parent provision are not satisfied.

6.19 Accordingly, the Respondent must first establish that the claim falls within the category of refund permitted under Section 54(3). Only thereafter can the applicable computation and procedural requirements under Rule 89 be considered.

6.20 The First Appellate Authority was required to determine the statutory basis of the refund and then examine the applicable computation. The mere accumulation of Compensation Cess ITC cannot replace that exercise.

6.21 Notification No. 5/2017-Central Tax (Rate), dated 28.06.2017, as amended from time to time, concerns specified goods in respect of which refund of accumulated ITC is restricted under the inverted tax structure category. The applicability of this notification must be determined with reference to the description and classification of the outward goods, the relevant amendments and the tax period concerned.

6.22 The material presently available does not establish that the finished leather products manufactured by the Respondent fall within a specified category covered by the notification as applicable during the period as mentioned above. We find, therefore, does not base its conclusion upon an assumption that the notification applies to the Respondent's goods. Nevertheless, the absence of an applicable notification-based restriction would not, by itself,

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establish a right to refund. The substantive requirements of Section 54(3) must independently be fulfilled.

6.23 The Respondent has relied upon Circular No. 45/19/2018-GST dated 30.05.2018 in support of its refund claim. Paragraph 5 of the circular concerns refund of unutilised Compensation Cess ITC on inputs where the final product is not subject to Compensation Cess. Paragraph 5.1 identifies the issue by reference to exporters manufacturing aluminium products using coal, where Compensation Cess is levied on coal but not on aluminium products.

Paragraph 5.2 clarifies: *"...a registered person making zero rated supply of aluminum products under bond or LUT may claim refund of unutilized credit including that of compensation cess paid on coal."*

6.24 The clarification must be read in the context in which it was issued. It addresses zero-rated supplies of aluminium products made under bond or LUT and does not expressly grant an unconditional refund entitlement for every domestic outward supply whose finished product is not subject to Compensation Cess.

6.25 The Respondent's claim relates to domestic supplies of leather products. The record does not establish that the disputed amount is attributable to zero-rated supplies covered by the clarification.

6.26 The Respondent is correct in contending that an administrative circular cannot override the parent enactment. However, this principle does not itself establish that the disputed refund is admissible.

6.27 The First Appellate Authority did not adequately explain how the clarification concerning zero-rated supplies supported the refund claim arising from the Respondent's domestic outward supplies. Its reliance upon the circular is, therefore, insufficient to sustain the impugned order.

6.28 The respondent relied on In *Patson Papers Private Limited v. Union of India*, the Gujarat High Court, by order dated 28.03.2025, considered refund claims concerning Compensation Cess paid on coal used in the manufacture of goods exported by the petitioners. The Court examined Section 54(3) of the CGST Act, Section 16 of the IGST Act, Section 11(2) of the Compensation Cess Act and the relevant CBIC circulars.

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6.29 The Respondent cannot, therefore, rely upon the judgment as dispensing with the conditions of Section 54(3) in every case involving accumulated Compensation Cess ITC. The statutory conditions and factual circumstances of the present claim must be examined independently.

6.30 The Respondent relied on In *Atul Limited v. Union of India*, the Gujarat High Court, by judgment dated 24.07.2025, examined refund claims relating to accumulated Compensation Cess ITC on coal used in manufacturing goods exported by the petitioner.

6.31 The Court considered the relevant provisions of the CGST Act, the IGST Act and the Compensation Cess Act, together with the applicable circulars, in the context of zero-rated supplies.

6.32 The judgment is distinguishable because the Respondent in the present appeal has claimed a refund in respect of domestic outward supplies. The record does not establish that the disputed amount is attributable to exports or other qualifying zero-rated supplies.

6.33 Accordingly, the decision cannot be treated as establishing an automatic entitlement to refund under the inverted tax structure category for the domestic supplies involved in the present case.

6.34 The Respondent relied on In *Tata Steel Limited v. State of Jharkhand*, the Jharkhand High Court, by judgment dated 03.04.2025, considered a refund claim concerning Compensation Cess ITC on coal used in manufacturing goods exported under a Letter of Undertaking.

6.35 The Court set aside the rejection orders because the refund had been rejected on grounds found to be beyond the requirements of the applicable statutory provisions, rules and binding circulars.

6.36 The judgment concerned exported goods and the procedural requirements applicable to the refund claim in that case. It does not directly determine the admissibility of a refund arising from domestic outward supplies of leather products.The decision is, therefore, distinguishable on facts and does not dispense with the requirement to establish the statutory conditions of Section 54(3) in the present proceedings.

6.37 The above judgments demonstrate that refund of Compensation Cess ITC may be available in appropriate circumstances, particularly where the credit is attributable to qualifying

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zero-rated supplies. They also establish that statutory provisions and binding circulars must be correctly applied. However, the cases arose in materially different factual circumstances. They do not, on the facts presently establish, that the Respondent's domestic refund claim is automatically admissible.

6.38 The Department's appeal must accordingly be determined by applying Section 54(3) to the particular outward supplies and the precise refund category invoked by the Respondent.

6.39 The First Appellate Authority allowed the Respondent's appeal principally on the ground that Compensation Cess paid on coal constituted eligible ITC and was not blocked under Section 17(5) of the CGST Act, 2017.

6.40 However, the First Appellate Authority was also required to determine whether the accumulated credit fulfilled the statutory conditions for refund under Section 54(3). The impugned order does not adequately establish:

6.41 The First Appellate Authority thus failed to adequately distinguish between admissibility of credit and entitlement to refund. This constitutes a material deficiency in the application of the statutory refund provisions.

6.42 Upon a cumulative consideration of the facts, the statutory provisions, the applicable rules, the circulars and the judicial authorities, we find that the First Appellate Authority has not established, on the material presently available, an independent statutory entitlement to a refund claims under Section 54(3) of the CGST Act, 2017.

6.43 The fact that Compensation Cess was paid on coal used in the manufacturing process, and that the corresponding credit may otherwise be admissible, does not automatically confer a right to receive the accumulated amount as a cash refund.

6.44 The First Appellate Authority was required to establish that the accumulation fell within a category for which refund was permissible under Section 54(3), read with the applicable provisions governing Compensation Cess. The First Appellate Authority did not adequately record such a finding before allowing the refund.

6.45 Accordingly, the Department's contention that admissibility of ITC and entitlement to refund claims are distinct statutory matters, is accepted. The impugned Order-in-Appeal is liable to be set aside.

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6.46 We accordingly find that the Department's challenge to the impugned Order-in-Appeal is sustainable.

7. ORDER

In view of the foregoing findings and discussion, the we pass the following order:

The following Appeals filed before Appellate Tribunal by the Department under Section 112(3) of the SGST Act, 2017, are hereby **allowed**.

Sl. No.	Appeal Filing Number	Date of Order	Amount (Rs.)	Period
1	2026109101000110	6-Nov-2020	15040	Jun-18
2	2026109101000120	5-Jan-2021	11704	Mar-19
3	2026109101000126	21-Nov-2020	19463	Sep-18
4	2026109101000129	21-Nov-2020	10321	Apr-June-18
5	2026109101000130	24-Nov-2020	13010	Dec-18
6	2026109101000131	5-Jan-2021	2446	Feb-19

i. Order-in-Appeal dated 05.07.2021, passed by the Additional Commissioner, Grade-II (Appeal), Commercial Tax, Kanpur, is hereby **set aside**.

ii. The original Refund Rejection Orders, passed by the Deputy Commissioner, Commercial Tax, Sector-20, Kanpur, rejecting the disputed refund claims, are hereby **restored**.

13.X.26

(Santosh Kumar Srivastava)

(Arvind Kumar) 13/10/26

Dated: 13.10.2026

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