GOODS AND SERVICES TAX APPELLATE TRIBUNAL

State Bench Thane

Division Bench Court No. Court I

APL/31/THN/2026

VIKRAM INDERJIT KAPUR **.....Appellant**

Versus

RAJESH CHANDRAKANT VISHE, DEPUTY COMMISSIONER OF STATE TAX, 2ND FLOOR SAI COMMERCIAL COMPLEX NR. CHITRALAYA BOISAR TARAPUR DIST. PALGHAR MAHARASHTRA PIN CODE : 401504 **.....Respondent**

Quorum

Hon'ble Shri Ramesh Nair, Member(Judicial)
Hon'ble Shri Prallhad S. Paranjape, Member (Technical)

Counsel for Appellant

SHRI SURINDER MEHRA, CHARTERED ACCOUNTANT

Counsel for Respondent

SHRI CHHAGAN D JAYBHAY

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. : ZA270231026000054H

Date of order : 22/10/2026

1.	GSTIN/Temporary ID/UIN - 27AAACL0824C1Z3

2.	Appeal Case Reference no. - APL/31/THN/2026	Date - 23/12/2025
3.	Name of the appellant - VIKRAM INDERJIT KAPUR , adminho@lavinokapur.com , 9821045987	
4.	Name of the respondant - 1. RAJESH CHANDRAKANT VISHE	
5.	Order appealed against - AD270122037408B	
	(5.1) Order Type - Refund Order	
	(5.2) Ref Number - ZD270923059729O	Date - 26/09/2023
6.	Personal Hearing - 22/10/2026 30/09/2026 23/09/2026 20/08/2026	
7.	Status of Order under Appeal - Modified – Order under Appeal is modified	
8.	Order in brief - The appeals are allowed by way of remand to the Adjudicating 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

Place :THANE Signature

Date : 22.10.2026 THANE Shri Ramesh Nair

Designation : Member

Jurisdiction :Thane

ORDER

GOODS AND SERVICES TAX APPELLATE TRIBUNAL

THANE STATE BENCH, MAHARASHTRA

Appeal Nos.: APL/12 to 50/THN/2026 (39 Appeals)

IN THE MATTER OF:

Vikram Inderjit Kapur

Director, M/s. Lavino Kapur Cottons Pvt. Ltd.

Tarapur, Boisar (West), Dist. Palghar,

Maharashtra, 401506 .....Appellant (Assessee)

VERSUS

The Deputy Commissioner of State Tax, Tarapur .....Respondent (Revenue)

Per: Ramesh Nair, Judicial Member

1.1 The present batch of 39 appeals has been preferred by the Appellant, Mr. Vikram Inderjit Kapur (Director, M/s. Lavino Kapur Cottons Pvt. Ltd.),

assailing various Orders-in-Appeal passed by the Joint Commissioner of State Tax (Appeals), Thane Rural Division, Bhayander, which confirmed the partial rejection of refund claims across multiple tax periods ranging from June 2019 to September 2022.

1.2 Since the underlying facts, the nature of the business, the grounds for refund rejection (i.e., "Mismatch of ITC"), the primary legal challenge regarding the non-issuance of a Show Cause Notice (Form GST RFD-08), and the questions of law involved in all 39 appeals are identical, they are taken up together for disposal by way of this common order. For the sake of brevity and convenience, the facts pertaining to the refund application for the month of August 2020 (Appeal arising from Order-in-Appeal dated 25.09.2023 and Order-in-Original dated 12.01.2021) are being referred to and considered as the lead case. The decision rendered herein shall apply *mutatis mutandis* to all 39 appeals in this batch.

2. Brief Facts of the Case

2.1 The taxpayer company, M/s. Lavino Kapur Cottons Pvt. Ltd., is a 100% Export Oriented Unit (EOU) registered under the MGST Act, 2017, engaged in the manufacture and export of Absorbent Cotton of Pharmacopoeia grade falling under Chapter 56, subheading 56012110 of the Central Excise Tariff Act, 1985. The company exports 100% of its finished products without

payment of domestic GST and accordingly claims refunds of accumulated Input Tax Credit (ITC) under Section 16(3)(a) of the IGST Act, 2017.

2.2 For the month of August 2020, a refund application was filed claiming an accumulated ITC refund of Rs. 63,17,232/- (comprising CGST of Rs. 23,25,889/-, SGST of Rs. 23,25,889/-, and IGST of Rs. 16,65,454/-).

2.3 The Adjudicating Authority (Deputy Commissioner of State Tax, Tarapur-502) processed the claim and issued a Refund Sanction/Rejection Order in Form GST RFD-06 dated 12.01.2021. Vide this order, the Adjudicating Authority partially sanctioned the refund but rejected an amount of Rs. 18,09,402/- (CGST Rs. 9,04,701/- and SGST Rs. 9,04,701/-). The sole reason cited in the order for this substantial rejection was "Mismatch of ITC".

2.4 Crucially, before partially rejecting the refund claim, the Adjudicating Authority did not issue any Show Cause Notice in Form GST RFD-08, nor was the Appellant granted any opportunity to file a reply in Form GST RFD-09 or an opportunity of being heard.

2.5 Aggrieved by this rejection, an appeal was filed before the Joint Commissioner of State Tax (Appeals), Bhayander. During the appellate proceedings, detailed written submissions were filed, pointing out the procedural violation of non-issuance of Form GST RFD-08. A reconciliation chart was also furnished relying on Notification No. 30/2020-Central Tax

dated 03.04.2020 and Circular No. 142/12/2020-GST dated 09.10.2020, which permitted a cumulative application of the condition under Rule 36(4) of the CGST Rules for the period February 2020 to August 2020.

2.6 The First Appellate Authority, in the impugned Order-in-Appeal dated 25.09.2023, explicitly acknowledged and recorded that the Adjudicating Authority had failed to follow Rule 92(3) of the CGST/MGST Rules, as no notice in Form GST RFD-08 was issued and no opportunity of being heard was granted. Despite recognizing this fundamental procedural flaw, the Appellate Authority dismissed the appeal and confirmed the rejection. The Appellate Authority reasoned that during the personal hearings at the appellate stage (on 22.08.2023 and 04.09.2023), the Appellant failed to produce specific invoices of GSTR-3B non-filers and details of capital goods ITC, rendering the original rejection order sustainable.

2.7 Aggrieved by the impugned Order-in-Appeal (and identically placed orders for the other 38 tax periods), the Appellant has approached this Tribunal.

Grounds of Appeal and Submissions by the Appellant

3.1 Shri. Surinder Mehra, learned Chartered Accountant for the Appellant vehemently argued that the impugned Order-in-Original and Order-in-Appeal

suffer from severe legal infirmities and have been passed in gross violation of the principles of natural justice.

3.2 The primary contention raised is that Rule 92(3) of the CGST/MGST Rules strictly mandates that if any part of a refund claim is found inadmissible, the proper officer *shall* issue a notice in Form GST RFD-08, requiring the applicant to furnish a reply in Form GST RFD-09 within 15 days. The proviso to the said rule explicitly states that no refund application shall be rejected without giving the applicant an opportunity of being heard. The Appellant submitted that the Adjudicating Authority bypassed this mandatory statutory requirement entirely, making the rejection order bad in law.

3.3 On the merits of the "Mismatch of ITC", the Appellant contended that the Adjudicating Authority provided no specific details or reasons explaining the alleged mismatch. The Appellant submitted that the refund application was filed correctly with all requisite documents, including Annexure-B containing complete details of invoices for input goods, input services, and input capital goods, as well as copies of the invoices not reflected in GSTR-2A.

3.4 The Appellant further submitted that the Appellate Authority completely ignored the substantive legal submissions regarding the relaxation granted by the Government during the COVID-19 pandemic. Relying on Notification

No. 30/2020-Central Tax and Circular No. 142/12/2020-GST, the Appellant highlighted that for the period February 2020 to August 2020, Rule 36(4) was to be applied cumulatively. The Appellant demonstrated via reconciliation charts that their cumulatively claimed ITC in Form GSTR-3B for this period was significantly less than the eligible ITC reflected in Form GSTR-2A/2B. Hence, no disallowance on account of mismatch was legally warranted.

3.5 It was argued that while the Appellate Authority rightly noted the Adjudicating Authority's failure to issue Form GST RFD-08, it erred in ignoring the written submissions and instead rejecting the appeal on the grounds of non-submission of GSTR-3B non-filer details and matching with GSTR-1A at the appellate stage.

Submissions by the Respondent (Revenue)

4.1 Per contra, Shri. Chhagan D. Jaybhay, learned Authorized Representative for the Respondent filed a detailed para-wise reply and staunchly defended the findings of the impugned Order-in-Appeal.

4.2 The Respondent explicitly acknowledged and admitted that while processing the initial refund claim, FORM GST RFD-08 was not separately issued by the Proper Officer before restricting the refund amount.

4.3 However, the Respondent respectfully submitted that this procedural omission should be viewed in the context of the subsequent appellate

proceedings, wherein the Appellant was granted a full and effective opportunity of being heard. It was pointed out that the Appellate Authority afforded the Appellant multiple chances for a hearing, specifically on 23.08.2023 and, following an adjournment request, again on 04.09.2023.

4.4 The Respondent argued that during these appellate hearings, the Appellant was specifically asked to produce detailed documents, including invoices of supply of goods and services, the return filing position and tax payment proof of GSTR-3B non-filers, and invoices pertaining to capital goods to verify whether capital goods ITC was erroneously claimed in the refund. Since the Appellant failed to submit these requested documents, the Appellate Authority correctly concluded that the disputed refund amount was not admissible.

4.5 The Respondent emphatically submitted that the taxpayer was not deprived of an opportunity to explain their case or produce supporting documents, as the appellate proceedings successfully cured any initial defect. It was further contended that the Appellant has not demonstrated any specific prejudice caused to them by the non-issuance of FORM GST RFD-08, as they had full knowledge of the disputed refund amount and the reasons for its rejection, and had adequately contested the same through their statutory appellate remedy.

4.6 In light of the above, the Respondent prayed that the Tribunal uphold the findings of the Appellate Authority insofar as the disputed refund was found inadmissible on merits.

5. Questions of Law Involved

5.1 In view of the above facts and legal provision, the present batch of 39 appeals gives rise to the following substantial questions of law:

(a) Whether the partial rejection of a refund claim under Section 54 of the CGST/MGST Act, 2017, without issuing the statutorily mandated Show Cause Notice in FORM GST RFD-08 and without providing an opportunity to be heard, constitutes a gross violation of the principles of natural justice and the specific mandate of Rule 92(3) of the CGST/MGST Rules, 2017?

(b) Whether a foundational procedural defect namely, the complete bypassing of the original adjudication procedure (non-issuance of a Show Cause Notice) can be legally cured by merely affording the taxpayer a hearing at the appellate stage?

(c) Whether, in light of the admitted procedural infirmities at the adjudication stage, the matters warrant a remand to the Adjudicating Authority to initiate proceedings afresh in accordance with the law?

6. **Discussion and Findings**

6.1 We have carefully considered the submissions made by the Appellant and the para-wise reply filed by the learned Authorized Representative for the Respondent, and have meticulously perused the records of the case. The core issue before this Tribunal is one of procedural propriety and adherence to the principles of natural justice, specifically concerning the mandatory statutory procedure for rejecting a refund claim.

6.2 The procedure for processing and rejecting a refund application is explicitly laid down in Rule 92(3) of the CGST/MGST Rules, 2017. The said rule reads as follows:

"Where the proper officer is satisfied, for reasons to be recorded in writing, that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant, he shall issue a notice in FORM GST RFD-08 to the applicant, requiring him to furnish a reply in FORM GST RFD-09 within a period of fifteen days of the receipt of such notice and after considering the reply, make an order in FORM GST RFD-06 sanctioning the amount of refund in whole or part, or rejecting the said refund claim and the said order shall be made available to the applicant electronically and the provisions of sub-rule (1) shall, mutatis mutandis, apply to the extent refund is allowed:

Provided that no application for refund shall be rejected without giving the applicant an opportunity of being heard."

6.3 The language of the statute is unambiguous and mandatory. The use of the word *"shall"* in Rule 92(3) combined with the absolute embargo in the proviso makes it abundantly clear that the Adjudicating Authority has no jurisdiction or discretion to reject a refund claim, either wholly or partially, without first issuing a notice in FORM GST RFD-08 and affording the applicant a personal hearing.

6.4 In the present case, it is an admitted and undisputed fact on record that the Adjudicating Authority directly issued the Refund Sanction/Rejection Order in FORM GST RFD-06 without issuing FORM GST RFD-08 and without providing any opportunity of being heard to the Appellant.

6.5 The Respondent has sought to defend this omission by arguing that the Appellate Authority granted the Appellant an opportunity to be heard, thereby curing the procedural defect of the original stage. We are unable to accept this contention. The right to a Show Cause Notice and a hearing before an adverse civil consequence (such as the rejection of a substantial refund) is inflicted, is a fundamental statutory right deeply rooted in the constitutional principle of *audi alteram partem*. A post-decisional hearing at the appellate stage cannot serve as a substitute for a pre-decisional statutory notice. By failing to issue

FORM GST RFD-08, the Adjudicating Authority deprived the Appellant of the right to know the precise grounds for the "Mismatch of ITC" and the opportunity to furnish a specific, document-backed reply in FORM GST RFD-09.

6.6 The Hon'ble Supreme Court, in an unbroken line of jurisprudence including *Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan*, has emphasized that quasi-judicial authorities must act fairly, follow prescribed statutory procedures, and pass reasoned orders. An order passed in complete defiance of a mandatory statutory procedure is *void ab initio*. Because the foundation of the rejection (the Order-in-Original) is legally unsustainable due to the violation of natural justice, the superstructure built upon it—the impugned Order-in-Appeal—must also inevitably collapse. The Appellate Authority, having noted the blatant violation of Rule 92(3), ought to have remanded the matter back to the Adjudicating Authority instead of demanding documents and deciding the case on merits at the first appellate stage.

6.7 Consequently, without delving into the substantive merits regarding the exact nature of the ITC mismatch or the applicability of the COVID-19 relief circulars, we find it imperative to remand the entire batch of 39 appeals to the Adjudicating Authority to restore the procedural integrity of the assessment.

7. **ORDER**

7.1 For the facts, reasons, and legal provisions discussed hereinabove, the impugned Orders-in-Appeal passed by the Joint Commissioner of State Tax (Appeals), Thane Rural Division, Bhayander, and the corresponding Orders-in-Original passed by the Deputy Commissioner of State Tax, Tarapur to the extent it reject the refund claims, in respect of all 39 appeals covered under this batch, are hereby set aside.

7.2 The matters are remanded to the Adjudicating Authority keeping all the issues open for fresh, *de novo* processing of the refund applications. The Adjudicating Authority is directed to strictly comply with the statutory mandate of Rule 92(3) of the CGST/MGST Rules, 2017.

7.3 If the Adjudicating Authority, upon verification, finds any part of the claimed refund to be inadmissible, the Authority shall:

(a) Issue a proper, detailed Show Cause Notice in FORM GST RFD-08 (subject to the provisions and timelines permitted by law), explicitly setting out the specific invoice-wise details of any alleged ITC mismatch or other grounds for proposed rejection.

(b) Grant the Appellant sufficient opportunity, to furnish a comprehensive reply in FORM GST RFD-09, allowing them to submit all relevant reconciliation charts, circulars, and corroborative evidence.

(c) Afford the Appellant an opportunity for a personal hearing.

(d) Pass a speaking and reasoned order in FORM GST RFD-06 in accordance of law preferably, dealing with all the submissions and evidence placed on record by the Appellant.

7.4 The Appellant is directed to cooperate fully with the remand proceedings and adduce all requisite evidence before the Adjudicating Authority.

7.5 All 39 appeals are allowed by way of remand to the adjudicating authority.

(Pronounced in open court on 22.10.2026)

(Shri Prallhad S. Paranjape)
Member (Technical)

(Shri Ramesh Nair)
Member (Judicial)

Dated: 22.10.2026