GSTAT

Court No. Court I

APL/43/KLK/2026 &

APL/44/KLK/2026

The Commissioner of CGST & Central Excise,

Kolkata North Commissionerate,

GST Bhawan, 180, Shantipally, Rajdanga Main Road,

Kolkata-700107

..... **Appellant**

Versus

M/s HP Cotton Casuals Private Limited, 7th Floor, 3A, Ashoka House, Hare Street, Dalhousie, Kolkata – 700001

GSTIN/Temporary ID /UIN-19AABCH9855N1ZR **Respondent**

Counsel for Appellant

Ms. TANU DAS, SUPERINTENDENT, CGST, AUTHORISED REPRESENTATIVE

Counsel for Respondent

SHRI ANUP KUMAR LUHARUKA, 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 : No

Order reference no. : **Date of order :**

1.	GSTIN/Temporary ID/UIN - 19AABCH9855N1ZR

2.	Appeal Case Reference no. - APL/43/KLK/2026 & APL/44/KLK/2026	Date – 16.03.2026 & 17.03.2026
3.	Name of the appellant – ATANU MONDAL	
4.	Name of the respondent - M/s HP Cotton Casuals Private Limited	
5.	Order appealed against –	
	(5.1) Order Type – Appeal Order	
	(5.2) Ref Number – ZD1905250180040 & ZD190525022164K	Date – 13.05.2025 & 15.05.2025
6.	Personal Hearing – 12.06.2026, 16.07.2026, 31.07.2026 & 06.08.2026	
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

GST APPELLATE TRIBUNAL
जीएसटी अपीलीय अधिकरण

IN THE GOODS AND SERVICES TAX APPELLATE TRIBUNAL

KOLKATA BENCH

COURT NO.1

Appeal No.: APL/43/KLK/2026

The Commissioner of CGST & Central Excise,

Kolkata North Commissionerate

GST Bhawan, 180, Shantipally, Rajdanga Main Road,

Kolkata – 700107

…….APPELLANT

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……RESPONDENT

AND

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GSTIN/Temporary ID /UIN-19AABCH9855N1ZR

……RESPONDENT

In appearance :

For the appellant: Ms. Tanu Das, Superintendent, CGST

For the respondent : Mr. Anup Kumar Luharuka, CA

CORAM :

Hon'ble Shri Sunil Kumar Singh : Judicial Member

Hon'ble Shri Bijoy Kumar Kar : Technical Member

Final Order

Date of Hearing : 06.08.2026

Date of Order : 10.09.2026

Per: Shri Sunil Kumar Singh, Judicial Member

1. Since both the appeals bearing Nos APL/43/KLK/2026 and APL/44/KLK/2026 arise from the same *litigium* and revolve around substantially similar facts and questions of law, they are taken up together for disposal by a common order with the consent of the parties for the

sake of convenience and to avoid multiplicity of proceedings.

2. The present appeals have been preferred 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 No. 290/CGST/Kol-North/2025 (pertaining to APL/43/KLK/2026) and 291/CGST/Kol-North/2025 (pertaining to APL/44/KLK/2026) both dated 09.05.2025 passed by the Additional Commissioner (Appeals), CGST & CX, Kolkata Appeals I Commissionerate (in short 'the first Appellate Authority'). The said appeals have been filed before the first Appellate Authority by the present respondent i.e., M/s HP Cotton Casuals Private Limited under sub-section (1) of Section 107 of the CGST Act against the Order-in-Original bearing Ref No. ZD190924014884Y dated 10.09.2024 (pertaining to APL/43/KLK/2026) and ZD1908240567305 dated 28.08.2024 (pertaining to APL/44/KLK/2026) passed by the Assistant Commissioner of CGST and Central Excise, BBD Bag I Division, Kolkata North Commissionerate.

3. The respondent i.e., M/s HP Cotton Casuals Private Limited (19AABCH9855N1ZR) situated at 7th Floor, 3A,

Ashoka House, Hare Street, Dalhousie, Kolkata – 700001 is engaged in the business of manufacturing wearing apparel by way of bleaching, dyeing, printing, cutting, stitching, branding, labelling and packing of readymade garments and raw cotton cloth, is registered under the CGST/WBGST Act, 2017. The primary input is *'finish than'* (fabric) taxable @ 5% and other inputs are printing chemicals, packaging materials and stores taxable @ 12% and 18%. The output supplies are suits, tops, shorts, night suits, joggers falling under HSN 61 and 62 and are taxable @ 5%. Further, the respondent also claims 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.

4. In the instant case, the respondent has filed for refund of accumulated ITC under the inverted tax structure for an amount of Rs.34,47,623/- for the month of March 2024 (pertaining to APL/43/KLK/2026) and for an amount of Rs. 7,86,037/- for the month of February 2024 (pertaining to APL/44/KLK/2026), respectively 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 'OAA').

5. However, during the scrutiny of the said refund claims, the OAA has noticed certain deficiencies in the aforesaid refund claims and accordingly issued two separate Show Cause Notices (in short 'SCNs') bearing Ref Nos. ZD190824014111R dated 06.08.2024 (pertaining to APL/43/KLK/2026) and ZD1908240059641 dated 02.08.2024 (pertaining to APL/44/KLK/2026) to the respondent. The respondent has furnished replies to both the SCNs on 26.08.2024. The OAA after following the due process of law has rejected both the refund claims vide Refund Sanction Order bearing Ref Nos. ZD190924014884Y dated 10.09.2024 (pertaining to APL/43/KLK/2026) and ZD1908240567305 dated 28.08.2024 (pertaining to APL/44/KLK/2026) (in short 'the impugned orders') on the grounds that the inputs and output are same which are falling under same HSN and hence not eligible for refund under Section 54(3) of the CGST Act, 2017. Being aggrieved by the impugned orders, the respondent preferred appeals before the first Appellate Authority vide Ref No. AD190125004713E dated 07.01.2025 and AD1912240094275 dated 20.12.2024. However, the first Appellate Authority has allowed both the refunds claim filed by the respondent and set aside the impugned orders vide Order-in-Appeal

No. 290/CGST/Kol-North/2025 and No. 291/CGST/Kol-North/2025 both dated 09.05.2025 (in short 'the impugned OIAs').

6. The petitioner i.e., the Revenue, being aggrieved by the orders of the first Appellate Authority, filed the present appeals before this Tribunal mainly on the following grounds:

6.1 That the first Appellate Authority accepted the respondent's contention that they are involved in manufacturing activity without verification of any relevant document. The order of the first appellate authority relies solely on the respondent's submission and not on any verified documentary evidence.

6.2 The Revenue further contended that the first Appellate Authority has admitted that both input and output have the same HSN (e.g. garments) but still allows refund citing "value addition". Further, as per para 3.2 of Circular No. 135/05/2020-GST, refund is not admissible where input and output are same goods even if there is value addition which may be other factors than manufacturing.

6.3 The Revenue further contended that the OAA specifically identified three invoices related to capital

goods and some invoices related to personal use, are inadmissible under Rule 89(5) of the CGST Rules, 2017. However, the first Appellate Authority has not discussed or disallowed these invoices. Such blanket acceptance has led to erroneous refund. Also, it has rendered the OIAs non-speaking in nature.

6.4 The Revenue has further contended that the OAA noted several mismatches and ineligible invoices which were not reflected in GSTR-2B. Some invoices in the submitted Annexure-B, are not available in the GSTR-2B for the relevant period. The first Appellate Authority has not addressed this factual discrepancy which again makes the order non-speaking.

6.5 The Revenue also contended that the first Appellate Authority accepted respondent's clarification that ITC related to exports (zero-rated) was already excluded. However, no invoice-wise segregation or computation was produced by the respondent taxpayer or verified by the first Appellate Authority itself.

6.6 The Revenue also contended that the refund for inverted duty structure must be determined for each tax period, not cumulatively over the year. The first Appellate Authority's reasoning using "annual turnover

comparison" is contrary to Rule 89(5) of the CGST Rules, 2017 and Board Circulars. Thus, the decision on this count is not legally sustainable.

7. Ms. Tanu Das, Superintendent, CGST, Authorized Representative along with Shri Suprakash Das, Superintendent, CGST of the Revenue appeared physically and argued the case at length. They reiterated the facts and submissions which are already submitted in the Grounds of Appeal filed by the Revenue.

8. We have heard the arguments of the petitioner on the point of admission. Both the appeals were admitted and accordingly notice was issued to the respondent. The respondent filed his authorization and appeared through Shri Anup Kumar Luharuka, CA, the Authorized Representative. The authorized representative has filed his Cross Objection against the instant appeals.

9. Shri Anup Kumar Luharuka, CA, Authorized Representative of the respondent has filed the Cross Objection to both the instant appeals and are as under:

9.1 With respect to the ground raised by the Revenue vide para 6.1 above, the respondent submits that this ground is factually incorrect and misconceived. The refund under inverted duty structure is governed by the

provisions contained in Section 54(3)(ii) of the CGST Act, 2017. The respondent further submits that the term "registered person" is defined under Section 2(94) of the CGST Act, 2017 to mean a person who is registered under Section 25 of the Act. The definition does not make any distinction whatsoever between a trading entity and a manufacturing entity. The statute nowhere provides that the benefit of refund under Section 54(3)(ii) is available only to a 'manufacturer' as opposed to any other 'registered person'. The respondent further mention/submits that in the present case, the goods in question were purchased from suppliers in semi-finished or raw form. These goods were thereafter subjected to substantial processing, including dyeing, bleaching, cutting, stitching, packing, branding, and labelling, attracting GST @ 12%, 18%, or 28% duty as the case may be (in the relevant period), which is the normal and accepted practice. It is only after this processing that the goods are sold in the market as finished products. With respect to the allegation by the Revenue that the respondent is not a manufacturer, the respondent submitted Trade Licence to show his *bona fide* which categorically describes and records the respondent's business as that of a 'manufacturer'. In support, the

respondent also submitted that they are claiming refund under inverted duty structure since 2021-22. Their claim for refund was never disallowed on the basis of the fact whether they are a trader or a manufacturer.

9.2 With respect to the grounds raised in para 6.2 above, the respondent submits that the Revenue's reliance on para 3.2 of Circular No. 135/05/2020-GST dated 31.03.2020 is wholly misplaced and is out of context. Para 3.2 of the said Circular have main heading: "**Refund of accumulated Input Tax Credit (ITC) on account of reduction in GST Rate**", and is confined solely to a situation where the very same goods are supplied by a registered person at two different points of time, and the rate of GST applicable on that supply has been reduced by the Government. This position has been further clarified vide subsequent Circular(s) issued by the CBIC, which confirm that para 3.2 of the Circular has no application beyond the specific rate reduction scenario for which it was issued. However, the facts of the present case are entirely different. There is no case of the input and output being literally the 'same goods' supplied at two points of time with an intervening rate reduction. On the contrary, the respondent purchases raw/semi-finished goods viz., pre-stitched garments and raw cotton

cloth, neither of which is independently marketable in the form procured and subjects them to a substantial process of bleaching, dyeing, printing, cutting, stitching, branding, labelling and packing, before the finished, marketable, branded apparel emerges as output. This constitutes genuine value addition through a manufacturing/processing activity, which is squarely outside the purview of para 3.2 of Circular No. 135/05/2020-GST.

The respondent further placed their reliance on the recent judgment of the Hon'ble Madras High Court in the case of M/s Vindhya Spinning Mills Private Limited v. Assistant Commissioner of CGST and Central Excise, Sivakasi Division, Thiruthangal, W.P.(MD) Nos. 16757 & 16758 of 2025, decided on 14.07.2026 [2026-VIL-731-MAD; Neutral Citation: 2026:MHC:2893]. In this case the Department had rejected the refund claim under the inverted duty structure by placing reliance on Circular No. 135/05/2020-GST on the ground that the principal input and the output were taxable at the same rate. The Hon'ble High Court rejected this contention and held that Section 54(3)(ii) of the CGST Act does not recognise any distinction between principal and ancillary/other inputs, and that so long as accumulation of ITC arises because

other inputs used in the course of manufacture are taxed at a rate higher than the output, refund cannot be denied merely because one particular input (or, as in the present case, the broad HSN classification of input and output) happens to coincide. The Court further held that Rule 89(5) of the CGST Rules already provides the statutory mechanism for computing such refund, and that an executive Circular cannot be read so as to override or restrict the plain terms of the statute. Applying the ratio of the above judgment to the facts of the present case, the respondent submits that merely because the input is readymade garments/cloth and the output is finished apparel may carry an overlapping HSN description, refund cannot be denied when it stands demonstrated — as has been demonstrated and accepted by the first Appellate Authority that the accumulation of ITC has arisen on account of various other inputs (dyes, chemicals, printing ink, packing material) taxed at rates up to 18% and 28%, which are used in the course of manufacture of the final product taxed at 5%. The respondent further submits that the finding of the first Appellate Authority allowing the refund, notwithstanding an overlapping HSN between input and output, is legally correct, is in consonance with the statutory scheme of

Section 54(3)(ii) read with Rule 89(5), and does not suffer from any illegality.

9.3 With respect to the grounds raised by the Revenue vide para 6.3 above, the respondent submits that this ground proceeds on a factually incorrect premise. The respondent, in its reply to the Show Cause Notice, had itself voluntarily and specifically identified and excluded all invoices pertaining to capital goods from the computation of Net ITC for the purpose of the refund claim, precisely because ITC on capital goods is not permitted to be included in Net ITC under the Explanation to Rule 89(5) of the CGST Rules, 2017. Further, this very exclusion has been independently verified by the OAA itself. In the connected matter concerning the respondent's refund claims for the periods March 2024 and February 2024, the detailed impugned orders passed by the OAA records, at Point B(d)(Refund speaking order), a specific and unambiguous verification that: *"ITC on capital goods has not been included in calculation of Net ITC"*, and further, at Point B(e)(Refund speaking order), that *"ITC in respect of input services as well as capital goods is not included in calculation of Net ITC."* This is a contemporaneous record, generated by the Department's own Adjudicating Authority applying the

identical Rule 89(5) methodology squarely rebuts the Department's contention that capital goods invoices were erroneously allowed. It is further submitted that the invoice(s) alleged to relate to personal use were also duly explained by the respondent in its reply, demonstrating that such invoices were, in fact, raised in the name of the respondent company and pertained to expenditure incurred in the course and furtherance of its business, and were duly reflected in GSTR-2B, and hence could not be treated as inadmissible merely on an unsubstantiated allegation of 'personal use'. The impugned OIAs cannot be faulted merely because it did not repeat, invoice by-invoice, an exercise that had already been undertaken and placed on record by the respondent and duly verified by the OAA.

9.4 Further, with respect to the grounds raised by the Revenue vide para 6.4 above, the respondent contends that this ground is contrary to the express findings recorded by the first Appellate Authority and is liable to be rejected on this short ground alone. In the connected Order-in-Appeal Nos. 290/CGST/Kol-North/2025 and 291/CGST/Kol-North/2025 both dated 09.05.2025, the first Appellate Authority, at paras 5.6 and 5.7, respectively has specifically and categorically recorded as

follows: *"From GSTR-2A, GSTR-2B and submitted Annexure–B, I find that the respondent has input of various components, required for manufacturing of wearing apparel, except fur apparel attracting GST at rate of 5% to 28%. Moreover, from their submitted input invoices, which are obviously matched with the invoice details of the relevant GSTR-2A, GSTR-2B and Annexure B, I find that they have used Idacol Tartrazine (HSN 32041982), Jintexol Green II (HSN 32041222), P.G. 5400/71501 (HSN 39011090/10), Acid Slurry (HSN: 34029011) and Parafin Wax Type II (pellets) (HSN: 27122000) etc. at GST rate of 18%; and Cotton Hosiery Fabrics (HSN 6006) at GST rate of 5% for manufacturing of their finished goods wearing apparel, except fur apparel*." The above finding demonstrates that the first Appellate Authority did undertake a detailed invoice wise matching exercise between the respondent's submitted Annexure-B and the corresponding entries reflected in GSTR-2A/GSTR-2B, and arrived at a specific, reasoned finding thereon. The allegation that the first Appellate Authority failed to address the discrepancy regarding invoices not reflected in GSTR-2B is, therefore, factually incorrect. The respondent further submitted that, in any event, duly reconciled and explained each of the alleged mismatches in its reply to the Show Cause Notice (Query No. 8), demonstrating that invoices reported in Annexure-B were, in fact, correctly reflected in GSTR 2B under

corresponding/allied invoice numbers, and had furnished a reconciliation statement in support thereof. In these circumstances, the finding of the first Appellate Authority on this issue is a well-considered, speaking finding, arrived at after due verification of documentary evidence, and does not suffer from any infirmity.

9.5 with respect to the grounds raised by the Revenue vide para 6.5 above, the respondent contends that this ground, too, is contrary to the express findings of the first Appellate Authority and does not disclose any legal or factual infirmity in the impugned order. Further, in the connected Order-in-Appeal Nos. 290/CGST/Kol-North/2025 and 291/CGST/Kol-North/2025 both dated 09.05.2025, the first Appellate Authority has, at paras 5.7 and 5.8 of the impugned OIAs, respectively, specifically recorded a categorical finding on this very issue as follows: *"I find that the appellant clarified against the query that ITC availed for zero rated supply cannot be utilized for ITC refund of ITC for Inverted Duty Structure, by way of saying that as the appellant is a manufacturer, the formula applied in Rule 89(5) has already allowed the ITC on a ratio and so such way to extract such ITC. I accept the logic of the appellant."* Further, the respondent submits that the very formula prescribed under Rule 89(5) of the CGST Rules, 2017 is a self-contained, ratio-based mechanism

that inherently apportions Net ITC across the Adjusted Total Turnover (which includes zero-rated/export turnover). There is, therefore, no statutory requirement for a separate, additional invoice-wise segregation of ITC attributable to zero-rated supplies over and above application of the said formula, since the formula itself ensures that only the proportionate/ratio-based ITC attributable to the inverted-rated domestic supply is refunded. In these circumstances, it is submitted that the finding of the first Appellate Authority on the issue of zero-rated supply is a considered, reasoned finding grounded in the statutory formula under Rule 89(5).

9.6 With respect to the grounds raised by the Revenue vide para 6.6 above, the respondent submits that the actual quantification of the refund amount for the tax period in question was, and continues to be, undertaken strictly on a period-wise basis, by applying the formula prescribed under Rule 89(5) of the CGST Rules, 2017 to the data of the relevant tax period alone. This is expressly borne out by the OAA's in its impugned orders passed in the connected matter, which records, at Point B(c)(Refund speaking order), that the computation of Net ITC has been *"Verified on the basis of data available"* and, at Point B(h), that the "*Refund calculated on the basis of*

available data", i.e., period-specific data, applying the relevant statutory formula. It is submitted that the observation of the first Appellate Authority regarding the annual figures of GSTR-3B and GSTR-2A for the Financial Year 2023-24 — recorded, in the connected impugned OIAs, at Para 5.6 and 5.7 — was made only for a limited, corroborative purpose, on an overall/macro basis, that the respondent's business model genuinely generates an inverted duty and that fluctuation in ITC accumulation from month to month is attributable to the ordinary variation in purchase and sale volumes across a financial year, and not to any artificial manipulation. It is submitted that identical overall/annual basis verification was undertaken by the first Appellate Authority while passing the impugned OIAs as well, for the very same limited corroborative purpose, and not as the operative basis of quantification of the refund, which continued to be governed strictly by the period-wise Rule 89(5) formula.

10.1 We have carefully heard the arguments of parties and also carefully and minutely examined the records. The Revenue has preferred the instant appeals being aggrieved by the order passed by the first appellate authority who have allowed the refund filed by the

respondent herein by accepting the contention that the respondent is engaged in the manufacturing process without verifying any relevant documents. In this connection, we have examined the documents and found that the first appellate authority has discussed in details in the impugned OIAs with respect to the processes conducted/adopted by the respondent which amounts to manufacture and accordingly held that the respondent is not a trader and actually is a manufacturer and thereby is engaged in the value addition. However, we have failed to understand that the concept of manufacture is no more relevant in the GST era since the levy of GST is not on the point of manufacture but on the point of supply. We find it appropriate to mention the relevant provision contained in Section 9(1) of the CGST Act, 2017 as under:

"9(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on ***all intra-State supplies of goods or services or both****, except on the supply of alcoholic liquor for human consumption [2][and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption], on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person."*

On plain reading of the above provision, it is amply clear that GST is payable on the supply of goods or services or both. It is immaterial whether the respondent is engaged in the trading or manufacturing of goods. The Revenue is contesting on the very basis of manufacturing process without appreciating the provisions mentioned above. Hence, we are of the view that the respondent's eligibility for refund need not be based on the fact whether he is engaged in the trading of goods or manufacturer since the law is very much clear on this aspect.

10.2 With respect to the next contention raised by the Revenue by relying on para 3.2 of the CBIC Circular No.135/05/2020-GST dated 31.03.2020, we are of the view that the provisions of the said circular are applicable for the cases where there is a reduction of GST rate which is evident from the fact that the same is also mentioned in the heading of para 3 of the said circular. For brevity we reproduce the relevant para 3 of the circular as below:

"3. Refund of accumulated input tax credit (ITC) on account of reduction in GST Rate

3.1 It has been brought to the notice of the Board that some of the applicants are seeking refund of unutilized ITC on account of inverted duty structure where the inversion is due to change in the GST rate on the same goods. This can be explained through an

illustration. An applicant trading in goods has purchased, say goods "X" attracting 18% GST. However, subsequently, the rate of GST on "X" has been reduced to, say 12%. It is being claimed that accumulation of ITC in such a case is also covered as accumulation on account of inverted duty structure and such applicants have sought refund of accumulated ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act.

3.2 It may be noted that refund of accumulated ITC in terms clause (ii) of sub-section (3) of section 54 of the CGST Act is available where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies. It is noteworthy that, the input and output being the same in such cases, ***though attracting different tax rates at different points in time****, do not get covered under the provisions of clause (ii) of sub-section (3) of section 54 of the CGST Act. It is hereby clarified that refund of accumulated ITC under clause (ii) of sub-section (3) of section 54 of the CGST Act would not be applicable in cases where the input and the output supplies are the same."*

On plain reading of the heading contained in para 3 of the Circular, it is amply clear that the provisions of the circular are only applicable in cases where there is a reduction in the rate of GST. Further, the wordings contained in para 3.2 of the Circular viz., "***though attracting different tax rates at different points in time***" clearly indicates that the provisions will be applicable only when the same goods attract different rates of tax at different points of time. However, in the instant case, the issue is entirely different since the final products i.e., fabrics when sold in the open market are being sold at same rate of GST as there is no

reduction in the GST rate. Hence, the Revenue's reliance on this ground is factually incorrect and liable to be set aside.

10.3 The argument of the Revenue that in view of Circular No. 135/5/2020, the respondent is not entitled for the refund claim. This argument of the Revenue has no force. The Hon'ble High Court of Madras in the case of M/s Vindhya Spinning Mills Private Limited vs. The Assistant Commissioner of CGST and Central Excise, Sivakasi Division, Thiruthangal, W.P.(MD) Nos. 16757 & 16758 of 2025, decided on 14.07.2026 [2026-VIL-731-MAD; Neutral Citation: 2026:MHC:2893] have clearly held in paras 17 and 18 as below:

"17. Thus, it can be seen that the statute does not make any distinction between major and minor components. It clearly provides that if there is a higher rate of tax on output supplies, the party is entitled to claim a refund of unutilised input tax credit. It is now well settled that the taxing statute has to be construed as such. The catena of decisions quoted by the Learned Counsel for the petitioner lay down that the petitioner is entitled to the relief. In this case, though the rate of tax on cotton yarn is the same, with reference to the chemicals used, the packing and other materials used, there is a higher rate of tax on the output goods, and hence the petitioner is entitled to succeed. The necessary formula for the calculation is also prescribed in Rule 89 (5) of the Rules. The circular dated 18/11/2019 has already been declared unconstitutional, and hence no further relief need be granted regarding the same.

18. As a result,

(i)W.P.(MD)No.16757 of 2025 stands allowed. The impugned Order No. 7/XO0601/2025-Refund dated 17.03.2025 stands quashed. The respondent is directed

to process and sanction the refund of Rs. 10,88,231/- along with interest as per the provisions of the CGST Act, 2017, in accordance with the formula prescribed under Rule 89(5), after affording an opportunity of personal hearing, within three months from the date of receipt of the web copy of the Order.

(ii)W.P. (MD) No. 16758 of 2025 stands allowed. The impugned order No. 12/XO0601/2025-Refund dated 15.05.2025 stands quashed. The respondent is directed to process and sanction the refund of Rs. 15,50,228/- along with interest as per the provisions of the CGST Act, 2017, in accordance with the formula prescribed under Rule 89(5), after affording an opportunity of personal hearing, within three months from the date of receipt of the web copy of the Order."

In view of the observation made by the Hon'ble High Court, the argument advanced by the Revenue authority has no force.

10.4 The Revenue have also raised an issue that the refund must be determined for each tax period and not on cumulative basis for the relevant year. The Revenue have relied for this on Rule 89(5) of CGST Rules, 2017. From the perusal of the said rule, it is clear that there is no violation of the said rule in the instant case. From the records it reveals that OAA in the impugned orders have already computed the net ITC after verifying the data available and the refund was calculated on the basis of period specific data applying the formula prescribed in the said rule. So, the above argument of the Revenue has no force.

10.5 With respect to grounds raised by the Revenue as mentioned in paras 6.3, 6.4 and 6.5 above, we find that the same are related to the verification of the refund claims. We find that the first appellate authority has already discussed in detail regarding verification of documents pertaining to refund claims before passing the impugned OIAs and there is no infirmity in the view taken by him. Further, we also find that OAA in impugned orders have discussed in detail and passed the orders about the verification of the documents and found in order but the same issue is being raised now by the Revenue before this Tribunal has no force in the eyes of law. From the orders passed by the first Appellate Authority, it is clear that he has already discussed in detail regarding verification of the documents before passing the impugned OIAs. The Revenue has failed to bring any evidence except oral submission to rebut the findings made by the first appellate authority. Hence, in light of the above, we are of the view that the issues raised by the Revenue have no force. There is no infirmity in the order passed by the first Appellate Authority.

11. For the facts and reasons discussed above, the appeals bearing Nos. APL/43/KLK/2026 and APL/44/KLK/2026 filed by the Revenue have no merit, hence are 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.

SUNIL KUMAR SINGH

Digitally signed by SUNIL KUMAR SINGH
Date: 2026.09.10 16:56:05 +05'30'

(Shri Sunil Kumar Singh)
Member – Judicial

BIJOY KUMAR KAR

Digitally signed by BIJOY KUMAR KAR
Date: 2026.09.10 17:21:14 +05'30'

(Shri Bijoy Kumar Kar)
Member – Technical

Dated: