

Director General of Anti-Profiteering v. Raj & Company

Case number: NAPA/19/PB/2025

Citation: No neutral or reporter citation printed in the identified official order.

Decision date: 18 August 2025

Distributor rate-reduction liability: pricing discretion, Suvidha software and unresolved upstream duplication

Court: Goods and Services Tax Appellate Tribunal, Principal Bench, New Delhi, Anti-Profiteering Division

Bench: Justice (Retd.) Dr. Sanjaya Kumar Mishra, President, Single Bench Court I

Decision stage: Final reasoned distributor-liability judgment: Rs. 3,31,879 and 18% interest directed to Central and State Consumer Welfare Funds after rejection of the pricing-software defence; exact interest endpoint and Fund allocation are not separately specified.

01 Facts of case and issues

Raj & Company was a distributor of L'Oreal products. The source records the GST reduction from 28% to 18% effective 15 November 2017 under Notification 41/2017-Central Tax (Rate). The present dispute covers 1 April–31 December 2018. It is distinct from NAA Order 25/2018 dated 27 December 2018, which concerned 15 November 2017–31 March 2018 and determined Rs. 3,43,109. Raj reportedly accepted that earlier order and deposited that principal in September 2020; that history does not establish payment of the present demand or earlier interest.

DGAP's report dated 25 January 2021 computed Rs. 3,31,879 for the later period. Of 396 products supplied, 388 were described as affected by the rate reduction; the comparative computation ultimately used 201 products with pre-reduction sales. A worked shampoo example uses average base price Rs. 178.88, commensurate tax-inclusive price Rs. 211.08 and actual post-reduction unit price Rs. 236.61, printing Rs. 102.12 for four units. The complete transaction workings are not appended.

NAA Interim Order 20/2022 dated 28 September 2022 required reinvestigation because the same period and products also fell within the separate L'Oreal investigation. The latter had resulted in a recorded Rs. 1,86,39,57,058 award, including Rs. 6,95,433 apportioned to supplies to Raj during April–December 2018. DGAP's report dated 29 March 2023, received on 31 March 2023, retained Rs. 3,31,879 as Raj's own downstream liability. It could not correlate individual purchases and sales, or quantify any duplication, because purchase timing and product descriptions did not permit that exercise.

Raj maintained that L'Oreal's Suvidha billing software controlled prices and that responsibility lay with the manufacturer. L'Oreal was heard and produced distribution-agreement clauses allowing the distributor to set prices below the ceiling and offer discounts. The Tribunal heard the matter finally on 29 July 2025 and delivered its order on 18 August 2025.

Pinpoint: Identity and framed question: physical pp. 1–4. Earlier award, product scope and worked example: paragraphs 4(a)–(h), pp. 8–12. Duplication remand and report: paragraphs 5–8, pp. 12–17. Party submissions and hearing: paragraphs 9–15, pp. 17–21.

02 Discussion by Hon'ble Tribunal

The Tribunal applies Reckitt Benckiser's rebuttable-presumption approach, recognising that genuine commercial factors may justify an otherwise unexplained price outcome if supported by cogent evidence. It found no sufficient rebuttal on the material presented here. The reproduced reference to costing factors being irrelevant is not a universal prohibition on commercial justification: the same discussion expressly preserves justified, non-pretextual price changes.

Paragraphs 19–20 note that the earlier NAA order had rejected the software-control defence and was, on this record, accepted rather than challenged. The Tribunal does not stop at that history. It separately construes clauses 7.1 and 7.6, reproduced in paragraph 15, as preserving Raj's discretion to determine prices subject to the maximum and to offer discounts. On those clauses and the absence of cogent contrary evidence, it rejects the attempt to shift all responsibility to L'Oreal. This is an adjudication of this distributor's evidence and agreement, not a universal factual conclusion about every supplier's software or contracts.

The upstream-duplication issue requires a qualification. DGAP explained why its purchase-to-sale correlation could not be made and distinguished the manufacturer's Rs. 6,95,433 upstream amount from the distributor's Rs. 3,31,879 downstream amount. L'Oreal also stated that duplication could not be verified. The judgment nevertheless imposes the downstream award. It does not provide a complete transaction-level reconciliation or establish affirmatively that there was no overlap. The note therefore does not turn the inability to measure duplication into proof that duplication was eliminated.

The source also contains chronological and tabular tensions. Its chart prints a complaint date of 12 March 2028, a report-receipt date of 31 March 2024 where the body says 31 March 2023, and a 9 May 2019 reference before describing an August 2018 report. Paragraph 18 prints the older period's endpoint as 13 March 2028, whereas paragraphs 4 and 6 identify 31 March 2018. The chart's Rule 133(2) reference differs from the body's Rule 133(2A). Table A labels its post-reduction column as pre-reduction and repeats a formula label; its example's base-period heading differs from the broader July–November comparison described in the text. These are disclosed source discrepancies, not silently corrected records.

Paragraph 21 resolves liability and orders principal with 18% interest. It does not separately determine a penalty, specify a rupee interest sum or explain a temporal distinction between recipient interest and the later amendment of the Fund provision. The note preserves the actual direction without supplying a rationale the Tribunal did not give.

Pinpoint: Reckitt discussion and rebuttal: paragraphs 16–18, physical pp. 21–24. Independent agreement analysis: paragraphs 19–21, pp. 24–25; clauses reproduced at pp. 20–21. Duplication limits: paragraph 6, pp. 14–16, and paragraph 15, p. 20. Date/table tensions: pp. 4–7, 10–11, 13 and 23.

03 Judicial decision and operative relief

The Tribunal held that Raj & Company failed to pass the GST-rate-reduction benefit to ultimate consumers and directed its sole proprietor to deposit Rs. 3,31,879 with interest at 18% per annum in Consumer Welfare Funds created by the Centre and State under Section 57. The operative paragraph does not specify a 50:50 split, name the State Fund or provide a contingency if a State Fund is unavailable. Those features are not imported from other judgments. Nor is additional GST added to the adjudged principal.

03 Judicial decision and operative relief

The interest wording refers to collection of the higher amount and then gives 1 April–31 December 2018. That is the stated investigation/collection period, but the paragraph does not separately articulate a deposit-based endpoint. The clearer until-deposit phrase in paragraph 18 concerns the older NAA award. This note does not transfer it to the present direction, treat 31 December 2018 as a conclusively settled final interest date or compute interest on assumed dates.

Deposit is directed within three months. On failure, the jurisdictional CGST/SGST Commissioners are to recover the amount. Paragraph 22 separately requires the concerned Commissioner to report compliance to the Tribunal within four months from receipt of the order. The three-month direction does not separately express the same receipt-based trigger. No penalty amount is ordered. The typed and visible digital-signature dates are 18 August 2025. Actual deposit, allocation and reporting remain unverified.

Pinpoint: Fresh principal, interest wording, Funds, three-month deposit and default recovery: paragraph 21, physical p. 25; administrative summary, p. 2. Separate four-month receipt-based report: paragraph 22, p. 25. Older interest quotation: paragraph 18, pp. 23–24.

04 In favour of

The anti-profiteering authority and consumer-welfare interests on the distributor's fresh Fund-deposit liability. No identified consumer refund or fresh liability against L'Oreal is ordered here. The unresolved upstream-duplication record, imprecise interest endpoint, unspecified Fund split and absence of a quantified penalty remain explicit.

Final substantive liability judgment. The Tribunal independently rejects the distributor's contractual/software defence and applies a rebuttable statutory presumption, rather than merely recording the older award or its payment. Its operative financial direction remains qualified by the precise wording and unresolved evidentiary limitations.

Pinpoint: Paragraphs 16–22, physical pp. 21–25.

05 AKHB REVIEW POINT

AKHB analysis: Test a software-control defence against the actual distribution contract and evidence of operational pricing discretion. An upstream manufacturer's liability does not itself resolve the distributor's downstream obligations, but overlapping periods and transactions require a documented reconciliation; an inability to trace overlap is not positive proof of its absence.

Obtain the complete DGAP workings, product mapping and earlier payment records. Distinguish the 2018 NAA award from the fresh 2025 direction and keep the manufacturer's separately apportioned figure out of any unsupported netting exercise. Before execution or advice, verify subsequent treatment and seek authoritative clarity on the present interest endpoint, exact Fund allocation and deposit trigger. Track the separate four-month receipt-based compliance report. These are professional-review recommendations, not added judicial directions.

Pinpoint: AKHB commentary based on paragraphs 4–6, 15 and 18–22, physical pp. 9–16 and 20–25.

Sources and limitations

Relevant provisions

CGST Act 2017: Section 171 and Section 171(1), operative rate-reduction pass-through and rebuttable-presumption analysis; CGST Act 2017: Section 171(2), earlier NAA determination history; CGST Act 2017: Section 57, operative Consumer Welfare Fund destination; CGST Act 2017: Section 109(3), Principal Bench constitution context; CGST Rules 2017: Rules 129(1), 129(3) and 129(6), investigation and notice history; CGST Rules 2017: Rules 133(1), 133(2), 133(2A) and 133(4), historical determination, clarification and remand, with the chart/body clarification-reference difference preserved; Central Tax (Rate) Notification 41/2017 dated 14 November 2017, rate reduction effective 15 November 2017; Central Tax Notification 23/2022 dated 23 November 2022 and Notification 18/2024 dated 30 September 2024, CCI and Principal Bench institutional succession respectively; Principal Bench GSTAT Anti-profiteering Methodology and Procedure Rules 2025, source recital of commencement on 12 June 2025; Distribution Agreement clauses 7.1 and 7.6, contractual pricing-discretion findings, not statutory provisions.

Statutory note

Targeted official CGST Act and historical-rule checks confirm the anti-profiteering framework and institutional succession; original clause and commencement details are kept distinct from case relief. Source Section 57 supports the stated Fund destination, but no numerical split is expressed in the operative paragraph. The order imposes 18% interest for 2018 collections without explaining the later Fund-interest amendment or specifying a separate endpoint. The express addition to Rule 133(3)(c) on 28 June 2019 and later Proctor reasoning are contextual checks, not a licence to rewrite this award. Earlier recipient-return interest provisions existed, so no universal proposition that all interest power began in June 2019 is made. No penalty amount or express Section 171(3A) exemption is adjudicated here. Official Notification 41/2017–Central Tax (Rate), dated 14 November 2017 and effective 15 November 2017, was checked at the relevant perfume, cosmetics and hair/oral-preparation entries. Its CGST component is 9%; the source's combined 18% GST is not mislabeled as CGST alone. This does not independently classify every investigated SKU.

Treatment note

Bounded official-source searches completed on 13 October 2026 identified later same-Tribunal reliance in Shree Sai Kripa Marketing, 27 January 2026, paragraphs 23–25 (physical pp. 23–24), concerning a retailer's pricing discretion. That is not appellate affirmation or an independent full review of the later case. No authenticated later appeal, stay, reversal or correction of this exact Raj order was identified; search absence does not certify that none exists. The older NAA order and the respondent's assertion about L'Oreal being penalised by the High Court were not separately verified. The source's statement that the older award was unchallenged remains its dated record. Deposits and compliance are unverified.

Scope of source review

One Principal Bench anti-profiteering judgment for Raj & Company's 1 April–31 December 2018 sales. The Tribunal independently applies the rebuttable statutory presumption and distribution-agreement pricing clauses to a contested defence, imposing fresh liability for a period distinct from the older NAA award. DGAP's inability to quantify possible upstream duplication remains a recorded limitation, not a finding that duplication was disproved. This is not merely closure upon the earlier payment. No ordinary GST appellate or complete GSTAT coverage is claimed.

Identity note

NAPA/19/PB/2025; reference ZA070825000035H; President Sanjaya Kumar Mishra, Single Bench Court I; typed and visible digital-signature date 18 August 2025. The administrative Confirmed label does not convert this Section 171 proceeding into an ordinary appeal. Body institution date 29 March 2023 differs from the wrapper's 31 March 2023 reference. The chart's 2028/2024 dates, paragraph 18's older-period endpoint and Rule 133(2)/133(2A) difference remain qualified. Fresh Rs. 3,31,879 is distinct from the older Rs. 3,43,109 and L'Oreal's apportioned Rs. 6,95,433. The Fund split and present interest endpoint are not separately specified.

Primary source

Source description: Complete 25-page official scanned PDF, including Form GST APL-04A and final reasoned order. OCR is a reading aid; all source images individually checked.

Official source: [Open source document](#)

Source pages: 25

Outcome type: final

Additional source

Shree Sai Kripa Marketing, GSTAT, 27 January 2026

Source document: [Open source document](#)

Pinpoint: Targeted paragraphs 23–25, physical pp. 23–24: later same-Tribunal reliance on Raj pricing discretion, not appellate treatment or full review of the 28-page order.

Reckitt Benckiser, Delhi High Court, 29 January 2024

Source document: [Open source document](#)

Pinpoint: Targeted paragraphs 117–119 and 131: commercial justification and substituted benefits. No Supreme Court final affirmation is claimed.

Central Tax Notification 31/2019, 28 June 2019

Source document: [Open source document](#)

Pinpoint: Physical pp. 1 and 5, clause 17: historical Rule 133 changes, including clause (c) interest. Context only; does not alter the selected Raj relief.

Central Tax Notification 18/2024, 30 September 2024

Source document: [Open source document](#)

Pinpoint: One-page instrument: Principal Bench empowerment effective 1 October 2024, institutional context.

Proctor & Gamble, GSTAT, 10 September 2025

Source document: [Open source document](#)

Pinpoint: Targeted physical pp. 10–16: later prospective Fund-interest reasoning. Distinct case, not a modification of Raj.

Central Tax (Rate) Notification 41/2017, 14 November 2017

Source document: [Open source document](#)

Pinpoint: Targeted physical pp. 11–12 and 33: relevant 9% CGST entries and 15 November 2017 commencement. No complete 396-product classification audit.

Disclosures and source rights

AI disclosure: Prepared with AI assistance from the identified sources. No human legal review is claimed.

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Source checked: 13 October 2026