

Director General of Anti-Profiteering v. Shree Sai Kripa Marketing; J. K. Helene Curtis Ltd., pro-forma respondent

Case number: NAPA/1/PB/2025

Citation: No neutral or reporter citation printed for this judgment in the identified official PDF.

Decision date: 27 January 2026

Distributor rate-reduction liability after remand: corrected duplicate invoices, methodology and commercial-evidence objections; interest and penalty excluded

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 judgment determining Rs. 19,32,446 for deposit equally between Central and relevant State Consumer Welfare Funds; no interest or penalty, with a four-month receipt-based Commissioner-report obligation.

01 Facts of case and issues

Shree Sai Kripa Marketing distributed goods of J. K. Helene Curtis Ltd., identified in the current caption as the pro-forma respondent. A complaint concerning Park Avenue Good Morning after-shave lotion, 50 ml, led to investigation of the combined GST reduction from 28% to 18% effective 15 November 2017. The adopted investigation period was 15 November 2017–31 March 2019. The source repeatedly reverses respondent numbers between historical material and the current caption; this note uses names to distinguish the distributor's liability from the manufacturer's.

DGAP compared the pre-reduction weighted average base price, after discounts, for 1–14 November 2017 with actual post-reduction invoice prices in the corresponding channel. Its illustration uses 2,220 units with taxable value Rs. 1,58,322, displayed average Rs. 71.32, and commensurate tax-inclusive price Rs. 84.15. Invoice GWTSSI180566 dated 21 November 2017 is shown as 12 units, Rs. 1,082 total, actual unit price Rs. 90.19 and excess Rs. 72.48. These are the source's printed figures; the unit quotient has a visible inconsistency and the example is not an independent audit of the full dataset.

The earlier NAA order 25/2020 dated 11 May 2020 recorded Rs. 18,48,34,084 for the manufacturer, Rs. 38,64,891 for the distributor and Rs. 8,97,253 as the manufacturer's historical upstream profiteering from the distributor. These are historical figures, not cumulative fresh awards in this judgment. The source records that the distributor challenged duplicated invoices in W.P.(C) 8161/2020, leading to a Delhi High Court remand after Revenue acknowledged some factual mistakes, with all rights and contentions left open. After that remand, DGAP's 17 December 2020 clarification revised the distributor amount to Rs. 19,32,446.

01 Facts of case and issues

The revised State table lists Delhi Rs. 19,02,069, Haryana Rs. 26,458 and Uttar Pradesh Rs. 3,919. The distributor contested statutory machinery, limitation, the average-to-actual comparison, supplier-level double recovery, inclusion of tax already remitted, overlooked discounts and commercial reasons. Its separate alternative table proposed Rs. 19,38,579 before deducting Rs. 2,94,780 tax, giving Rs. 16,43,799, while the preceding sentence printed Rs. 16,43,797. Neither alternative is the final award.

Pinpoint: Caption, framed issues and period: physical pp. 1–6, paragraphs 1–3. Worked Table A and old NAA amounts: pp. 6–9. Remand, submissions and alternative table: paragraphs 4–7, pp. 9–17. Revised State table: p. 17. Additional final submissions: paragraph 11, pp. 19–20.

02 Discussion by Hon'ble Tribunal

The Tribunal's own reasons begin at the second paragraph numbered 11, on physical page 20. Relying on Reckitt Benckiser, it rejects the absence-of-machinery objection and treats Section 171 as a pass-through obligation rather than price fixing. The source's paragraph 12 broadly describes real-estate methodology as incorrect; that description is not adopted here as a universal rule for all real-estate investigations, nor as a direct conclusion about this distributor's products.

On time, paragraphs 14–20 rely on the directory character of DGAP reporting timelines and the unrestricted nature of the High Court remand. GSTAT reasons that the predecessor authority's clarification direction after an open remand was not barred. This remains its application to the objections before it; the quoted report-timing passage is not itself an independently verified ruling about every Standing Committee referral or an unlimited investigation period. The source's report and daily-order dates conflict and are not silently repaired.

The Tribunal distinguishes the manufacturer's failure to pass on its own rate reduction from the distributor's duty towards its customers. It relies on Raj & Co. for pricing discretion, acknowledges the absence here of the same contractual document and nevertheless treats a retailer as having discretion to discount out of profit. This is the Tribunal's inference in this case, not proof of an identified contractual clause or a new general industry finding by this note.

A material contradiction must remain visible: paragraph 22 says DGAP's calculation method "is faulty", while paragraphs 27–28 uphold the revised computation and the average-to-actual method. Paragraph 27 also describes correction of duplicate invoices in language combining principal and retailer calculations. The fresh award is Rs. 19,32,446, but that operative result does not erase the contrary wording or prove that all possible upstream/downstream overlap has independently been audited. The underlying Annexure 34 and full invoice reconciliation are not reproduced.

Paragraphs 29–30 reject deduction of GST already paid to the Exchequer, reasoning that the consumer bore tax on the excess price and that remittance did not restore that benefit. The final quantified amount remains the adopted Rs. 19,32,446; the note does not add a second GST layer. DGAP's earlier Section 15(3)(a) response about invoice-recorded discounts remains DGAP's explanation rather than a separately reasoned discount finding.

02 Discussion by Hon'ble Tribunal

Paragraphs 31–36 apply the rebuttable-presumption approach to commercial factors: genuine reasons need cogent evidence and cannot merely evade the statutory duty. The Tribunal rejects the explanation on this record; it does not forbid every commercial price increase. Paragraphs 37–38 reject the proposition that a pending Supreme Court constitutional challenge alone removes jurisdiction in the absence of a stay. This is not Supreme Court merits approval or a present case-status certification.

The displayed State rows add exactly to Rs. 19,32,446. Half the old distributor figure, Rs. 38,64,891, is Rs. 19,32,445.50, consistent with the revised whole-rupee total after rounding, but halving alone does not verify the missing invoice schedule. In the worked illustration Rs. 1,082 divided by 12 is approximately Rs. 90.1667 rather than the printed Rs. 90.19; Rs. 6.04 multiplied by 12 does equal the printed Rs. 72.48. These checks expose limited source precision, not a replacement liability.

Pinpoint: Own reasons: second paragraph 11 through paragraph 38, physical pp. 20–27. Contradiction: paragraph 22, p. 23, versus paragraphs 27–28, p. 24. Illustration: pp. 6–7. Revised State rows: p. 17. Conflicting chronology: paragraphs 3(b), 5, 7, 15 and 19, pp. 5, 10, 15 and 21–22.

03 Judicial decision and operative relief

Paragraph 39 holds, on the preponderance of probability and evidence, that Shree Sai Kripa Marketing profited Rs. 19,32,446. Paragraph 42 directs deposit in the ratio 50:50 between the Central Consumer Welfare Fund and the relevant State Consumer Welfare Funds of Haryana, Delhi and Uttar Pradesh. This is an equal Central/aggregate-State allocation, not an equal four-way split. Half the total is Rs. 9,66,223, a derived figure rather than a separately printed rupee direction. The State-wise profiteering table supplies the geographic amounts, but this note does not invent additional allocation instructions.

Paragraphs 40–41 expressly decline to impose any interest or penalty because the relevant amendments postdated the alleged profiteering period. The earlier NAA quotation mentioning interest is history and does not alter this final relief. The selected paragraphs do not expressly name a numbered penalty subsection or fix a penalty amount. No further GST layer, upstream award or deduction is added to the final principal.

Paragraph 43 requires the concerned Commissioner to submit a compliance report to the Tribunal within four months from receipt of the order. This is a receipt-based reporting obligation, not an express four-month taxpayer deposit deadline. No separate numerical deposit deadline or alternative Fund-unavailability direction is stated. Copies are directed to the respondent and concerned CGST/SGST Commissioner.

The order is pronounced in open court. The cover and typed final-order date are 27 January 2026; the administrative summary and visible final-page digital-signature annotation are dated 28 January 2026. The note keeps these distinct and does not certify cryptographic signature validity. Actual deposits, receipt dates, reporting and subsequent clarification are unverified.

Pinpoint: Final determination, exclusion of interest/penalty, Fund split and report: paragraphs 39–43, physical p. 27. Circulation, pronouncement and signature: paragraph 44, p. 28. Decision and summary dates: pp. 1–2. State table: p. 17.

04 In favour of

Mixed. The authority and consumer-welfare interests prevail on the contested liability and Rs. 19,32,446 Fund deposit. The distributor benefits from the corrected duplicate-invoice amount and express exclusion of all interest and penalty. The result does not establish payment, resolve every internal contradiction or award the distributor a refund of upstream profiteering.

Final substantive adjudication after remand, with developed own reasoning and qualified ancillary relief. The 2026 order is not itself a remand, settlement or compliance closure. Final describes its adjudicative stage, not appellate exhaustion, present enforceability or satisfaction of the directions.

Pinpoint: Own reasons and operative directions: second paragraph 11 through paragraph 44, physical pp. 20–28.

05 AKHB REVIEW POINT

AKHB analysis: Separate duplication of the same invoice from alleged overlap between different supply-chain participants. Reconcile the original and revised schedules, tax components, relevant channel and State allocation instead of relying on a bare halving exercise or a supplier's separate award. The absence of complete underlying annexures limits what a published summary can verify.

Preserve actual price-discretion documents, purchase and sale invoices, contemporaneous discounts and evidence linking commercial costs to the contested price change. An upstream failure does not automatically establish discharge of a distributor's own pass-through obligation under this judgment. Assess the specific record rather than treating its marketing inference as proof of every contractual arrangement.

The paragraph 22 contradiction and inconsistent chronology should be addressed through an authenticated clarification or available legal remedy, not silently edited. Keep the express no-interest/no-penalty ruling separate from the earlier NAA history and the Commissioner's reporting date separate from payment timing. Verify the latest court treatment and actual compliance before relying on the order.

Pinpoint: AKHB commentary based on paragraphs 3–8, 14–30 and 36–44, physical pp. 5–18 and 21–28.

Sources and limitations

Relevant provisions

CGST Act 2017: Section 171 and Section 171(1), operative rate-reduction pass-through duty; CGST Act 2017: Section 15(3)(a), DGAP's invoice-discount explanation; CGST Act 2017: Section 109(3), Principal Bench constitution context; CGST Rules 2017: Rule 129(1), investigation history; CGST Rules 2017: Rule 133(1), quoted earlier NAA determination; CGST Rules 2017: Rule 133(2A), clarification history; CGST Rules 2017: Rule 133(3)(c), historical Fund quotations, with interest expressly excluded in the current final; CGST Rules 2017: Rules 113(1) and 115, administrative Form GST APL-04A heading only; Constitution of India: Articles 19(1)(g) and 300A, quoted Reckitt constitutional context; Central Tax (Rate) Notification 41/2017 dated 14 November 2017, rate reduction effective 15 November 2017; Central Tax Notification 18/2024 dated 30 September 2024, Principal Bench empowerment from 1 October 2024; Principal Bench GSTAT Anti-profiteering Methodology and Procedure Rules 2025, source recital of effect from 12 June 2025; paragraphs 40–41 do not expressly number the penalty subsection or interest-amendment notification.

Statutory note

Targeted official Notification 41/2017–Central Tax (Rate), dated 14 November 2017 and effective 15 November, places after-shave preparations under the 9% Central schedule. The source judgment supplies the combined 28% to 18% change; the State counterpart and full earlier schedule were not separately re-audited. Section 15(3)(a) remains DGAP's invoice-discount explanation. Reckitt's primary paragraphs 117–119, 126–135 and 158 distinguish cogent commercial reasons, case-specific construction scenarios and directory DGAP report time; they do not establish a universal rejection of every real-estate methodology or every statutory limitation. The earlier Raj original was targeted for its own agreement-based discretion reasoning, not generalized to all distributors. Historical recipient-return interest under Rule 133(3)(b) predates the express Fund-interest amendment of 28 June 2019; the latter and 1 January 2020 penalty commencement corroborate the temporal context of the final relief. Paragraphs 40–41 themselves do not name Section 171(3A) or Notification 31/2019, so the checks remain additional context rather than invented express citations.

Treatment note

A fresh normal-TLS official download exactly matches the collected original. Delhi High Court's 22 October 2020 judgment in W.P.(C) 8161/2020, 2020:DHC:3109-DB, was independently retrieved: Revenue acknowledged some factual mistakes, and the Court by consent set aside the 11 May 2020 NAA order and remanded for fresh adjudication, leaving all rights and contentions open. Duplicate invoices and supplier/distributor overlap were party contentions; the High Court did not itself direct halving or finally establish every duplication. That is history, not later treatment of this 2026 judgment. Bounded official-domain/name/docket searches on 13 October 2026 identified no authenticated later order modifying, staying or reversing this precise final; search absence does not establish no appeal, no stay or enforceability. The connected Supreme Court order of 31 July 2024 is procedural only, and the 9 September 2026 Delhi High Court record of pending constitutional appeals is date-bounded. No final Supreme Court merits affirmation or actual Fund compliance is certified.

Scope of source review

One final Principal Bench anti-profiteering judgment concerning a distributor's affected supplies for 15 November 2017–31 March 2019. Own reasons address statutory machinery, remand and limitation, average-to-actual comparisons, the upstream-supplier defence, GST inclusion and commercial evidence. The final substantive character rests on that contested adjudication, not merely acceptance of a revised report. Internal reasoning, numbering and date defects remain explicit; no universal supply-chain formula or complete GSTAT coverage is claimed.

Identity note

NAPA/1/PB/2025; reference ZA070010126000143H; President Sanjaya Kumar Mishra, Court I. Cover/typed order date 27 January 2026; summary and visible signature 28 January. Current caption makes Shree Sai Kripa the distributor respondent and J. K. Helene Curtis pro-forma respondent, while historical numbering repeatedly reverses. Duplicate paragraph 11, paragraph 22's contrary methodology sentence, first-report 24 September versus 17 December 2019, and paragraph 19's 2022 directions preceding a 2020 report remain disclosed. Rs. 19,32,446 operative, no interest or penalty; four-month receipt-based Commissioner report, no numerical taxpayer deposit deadline.

Primary source

Source description: Complete 28-page official PDF, including administrative summary and final reasoned judgment; all original pages read and individually viewed by the AI author.

Official source: [Open source document](#)

Source pages: 28

Outcome type: mixed

Additional source

CGST Act 2017, official India Code consolidation

Source document: [Open source document](#)

Pinpoint: Targeted Sections 109 and 171, physical pp. 87–88 and 122–123: Principal Bench jurisdiction, pass-through duty and Section 171(3A) insertion/commencement; not a complete current-law or appellate-remedy certification.

Shree Sai Kripa Marketing, Delhi High Court, 22 October 2020

Source document: [Open source document](#)

Pinpoint: All three pages, particularly paragraphs 3 and 6–9: party allegations, factual-error concession, consent remand and all rights/contentions open.

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

Source document: [Open source document](#)

Pinpoint: Targeted physical pp. 1, 9, 12 and 33: Schedule III 9%, entry 60A/heading 3307 and commencement. No full State or prior-rate audit.

Reckitt Benckiser, Delhi High Court, 29 January 2024

Source document: [Open source document](#)

Pinpoint: Targeted paragraphs 117–119, 126–135, 153–158 and 163: commercial evidence, construction scenarios, prescribed price reduction, ancillary powers, GST and reporting time; no full 142-page reread.

Central Tax Notification 31/2019, 28 June 2019

Source document: [Open source document](#)

Pinpoint: Targeted physical pp. 1 and 5, clause 17(c): express Fund-interest amendment; recipient-return interest existed earlier. Separate QR-code commencement is not imported.

Central Tax Notification 01/2020, 1 January 2020

Source document: [Open source document](#)

Pinpoint: Complete one-page instrument: Finance (No. 2) Act 2019 Section 112 commences on 1 January 2020.

DGAP v. Raj & Co., GSTAT, 18 August 2025

Source document: [Open source document](#)

Pinpoint: Targeted own reasons and agreement 7.1/7.6, physical pp. 20–25; key images 24–25 inspected independently. Different case, not appellate treatment.

Connected Supreme Court procedural order, 31 July 2024

Source document: [Open source document](#)

Pinpoint: All five pages checked; listing and pleadings directions, including the Reckitt docket, not merits affirmation or present-day status certification.

Delhi High Court connected procedural order, 9 September 2026

Source document: [Open source document](#)

Pinpoint: Targeted physical pp. 45–46: constitutional appeals pending and no Supreme Court interim order recorded as of 9 September 2026 only; not case-specific or current no-stay certification.

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