

Director General of Anti-Profitteering v. A J Enterprises

Case number: NAPA/2/PB/2025

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

Decision date: 20 February 2026

Restaurant rate-reduction liability: unsupported cost offsets, directory timetable and conflicting Fund-interest endpoints

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

Bench: Justice Mayank Kumar Jain, Member (Judicial), Court II

Decision stage: Final reasoned judgment sustaining Rs. 13,32,322 Fund liability, with interest commencing 28 June 2019 but conflicting end dates in reasoning and operative text; Section 171(3A) penalty excluded.

01 Facts of case and issues

A J Enterprises operated a Subway franchise restaurant at Amanora Mall, Pune. A complaint alleged failure to pass the GST reduction from 18% to 5% without input tax credit, effective 15 November 2017. DGAP's first report dated 20 August 2020 proposed Rs. 15,66,821. The former NAA's 13 April 2022 interim remand required reconsideration of product prices and the investigation period. DGAP's revised report dated 14 October 2022 proposed Rs. 13,32,322 for 15 November 2017–30 September 2019. These are investigation and remand history, distinct from the selected 2026 final.

The respondent disputed limitation, methodology and the length of the investigation. It relied on lost ITC, royalties, advertising, lease rent and online-platform commissions, and said the outlet had since closed. Its claimed 12.69% cost increase and 4.38% maximum-profitteering theory were submissions, not approved ceilings or findings of actual cost escalation. DGAP defended its 8.21% ITC-loss allowance and product/channel-specific pre-period averages compared with post-period transaction values.

The source reproduces the respondent's menu table: Aloo Patty base price rose from Rs. 135 to Rs. 152.40 and Hara Bhara Kabab from Rs. 120 to Rs. 133.30 on 15 November 2017. The final judgment resolves whether evidence justified those increases on the very date of the tax reduction. No complete product-level revised computation, invoice dataset, franchise agreement or cost ledger is appended.

Pinpoint: Complaint and report history: paragraphs 1–14, physical pp. 2–5. Respondent's commercial terms, menu table and objections: paragraphs 18–28, pp. 5–9. DGAP's response: paragraphs 29–32, pp. 9–10.

02 Discussion by Hon'ble Tribunal

The Tribunal begins its own consideration at paragraphs 33–35. It rejects the limitation objection in paragraphs 35–41, treating the six-month Rule 133 adjudication timetable as directory. It relies on P. T. Rajan, the expressly prima facie Nestle observation and Reckitt paragraph 158. The latter paragraph speaks of DGAP report timing; extending that rationale to this adjudication timetable is GSTAT's holding. The note does not turn a preliminary High Court observation into a final binding determination of every limitation question, or declare that every anti-profitteering proceeding may remain open indefinitely.

02 Discussion by Hon'ble Tribunal

On the merits, paragraphs 43–49 compare the actual menu prices with the rate-cut date and find no cogent evidence substantiating either the alleged operating-cost increases or their timing. The Tribunal applies the rebuttable presumption through Urban Essence and Reckitt: genuine commercial factors can justify an offset if proved, but unsupported assertions do not discharge that burden. Its inference of deliberate price maintenance is an attributed judicial finding, not an independent allegation by AKHB. The result does not mean royalties, rent or aggregator commissions can never be relevant in another evidential record.

Paragraph 50 rejects reopening the investigation-period dispute because the earlier limited remand had already directed the 15 November 2017–30 September 2019 period. Paragraph 51 finds contravention. Although the report and quantum objections were contested, the published judgment does not reproduce complete workings or separately calculate a numerical answer to the respondent's 4.38% theory. Acceptance of the Rs. 13,32,322 report is not independent verification by this note of every transaction.

For interest, paragraphs 52–55 follow the prospective Fund-interest approach in Proctor & Gamble, relying on the 28 June 2019 amendment. Paragraph 55 says interest runs from that date until deposit. Operative paragraph 58 and the administrative summary instead end it on 30 September 2019. Both formulations must be retained; this note does not select the shorter period or compute a replacement sum. Paragraph 56 excludes Section 171(3A) penalty because the investigated conduct predates 1 January 2020.

Other source defects remain: paragraph 2 ends the period on 30 September 2017, before its stated November start; paragraph 50 first refers to September 2020 before restating September 2019; paragraph 56 begins the period on 1 July 2017 rather than 15 November. The cost table is actually in paragraph 25 and the menu table in paragraph 19, despite later cross-references to paragraphs 20 and 18. Displayed tax/base rounding and the advertising-cost row have minor tensions, so neither the illustrative menu nor the respondent's percentage table is certified as complete arithmetic. The Rule 133(3)(c) quotation is incomplete and does not cure the judgment's interest conflict.

Pinpoint: Limitation: paragraphs 35–41, physical pp. 12–15. Own price/evidence findings: paragraphs 42–51, pp. 15–20. Interest and penalty: paragraphs 52–56, pp. 20–22. Period/cross-reference and table issues: paragraphs 2, 19, 25, 44, 46, 50 and 56, pp. 2, 6, 8, 16–17, 20 and 22.

03 Judicial decision and operative relief

GSTAT accepted DGAP's report dated 14 October 2022. Read with paragraphs 2, 12 and 32, the adopted principal is Rs. 13,32,322; the operative paragraph does not repeat the rupee figure. Fifty per cent of the profiteered amount with interest must be deposited in the Central Consumer Welfare Fund and the remaining fifty per cent with interest in the Maharashtra Fund. The note does not add another GST layer, award individual refunds or net off the earlier proposal.

The operative interest rate is 18%, from 28 June 2019 to 30 September 2019. Paragraph 55 instead extends it until deposit; that unresolved difference is material to execution. No rupee interest sum is fixed here. Section 171(3A) penalty is expressly excluded for the pre-2020 period, so the reproduced thirty-day penalty proviso does not create a new payment deadline.

03 Judicial decision and operative relief

There is no express numerical deposit or compliance-report deadline and no alternative Central-Fund contingency. Copies are to go to the jurisdictional CGST/SGST Commissioner for information and necessary action. The judgment was pronounced in open court; typed and visible digital-signature dates are 20 February 2026. Later deposit or judicial clarification remains unverified.

Pinpoint: Adopted amount: paragraphs 2, 12 and 32, physical pp. 2, 4 and 10. Conflicting interest, penalty exclusion and Fund split: paragraphs 55–58, p. 22 and administrative p. 2. Circulation, pronouncement, date and signature: paragraphs 59–60, p. 23.

04 In favour of

Mixed. The anti-profiteering authority and consumer-welfare interests prevail on Rs. 13,32,322 principal and the substantive/limitation objections. A J Enterprises succeeds in excluding pre-28 June 2019 Fund interest in the reasoning and Section 171(3A) penalty. The two interest endpoints prevent an unqualified period summary. No refund to the restaurant or verified compliance is inferred.

Final substantive mixed-result judgment with developed findings on timing, evidence and liability, followed by qualified interest and penalty relief. Outlet closure and the administrative Confirmed label do not replace that analysis. Finality here does not certify no appeal or stay.

Pinpoint: Paragraphs 35–58, physical pp. 12–22.

05 AKHB REVIEW POINT

AKHB analysis: Support a claimed commercial offset with dated underlying costs and explain why the price change occurred when the rate fell. Distinguish percentages calculated on different bases; an asserted tax-rate difference is not by itself a transaction-specific profiteering ceiling. Obtain the complete revised report and identify product/channel and ITC-loss inputs before challenging quantum.

Identify whether a cited time-limit authority is preliminary or final, and whether it concerns investigation or adjudication. For execution, preserve the conflicting interest endpoints and seek authoritative clarification rather than choosing an editorial preference. Check Fund destinations, later payment directions and current judicial treatment without borrowing deadlines from another case.

Pinpoint: AKHB commentary based on paragraphs 19–32, 35–50 and 52–60, physical pp. 6–23.

Sources and limitations

Relevant provisions

CGST Act 2017: Section 171 and Section 171(1), restaurant rate-reduction pass-through liability; CGST Act 2017: Section 171(2) and Section 171(3), reproduced authority context; CGST Act 2017: Section 171(3A), penalty expressly excluded for the historical period; CGST Act 2017: Section 74, respondent's five-year limitation analogy, not a tax-demand determination; CGST Act 2017: Section 109(3), Principal Bench constitution context; CGST Act 2017: Section 57, within the reproduced Fund provision; CGST Rules 2017: Rules 129(1) and 129(6), investigation history; CGST Rules 2017: Rule 133(4), earlier limited reinvestigation; CGST Rules 2017: Rule 133, six-month adjudication timetable held directory; CGST Rules 2017: Rule 133(3)(c), Fund deposit and prospectively applied interest with conflicting endpoints; Central Tax (Rate) Notification 46/2017 dated 14 November 2017, restaurant rate reduction from 15 November 2017; Central Tax Notification 31/2019 dated 28 June 2019, Fund-interest amendment; Central Tax Notification 18/2024 dated 30 September 2024, Principal Bench empowerment.

Statutory note

Targeted official Notification 46/2017–Central Tax (Rate), dated 14 November 2017 and effective 15 November, confirms the amended restaurant entry's CGST 2.5% without ITC, subject to its stated hotel/accommodation exception. The selected judgment supplies the combined GST 18% to 5% application here; the Maharashtra counterpart and complete earlier schedule were not independently retrieved. Notification 31/2019 expressly inserts collection-to-deposit Fund interest from 28 June 2019; recipient-return interest existed earlier, so this is not the first power to award all anti-profiteering interest. The six-month Rule 133 adjudication ruling remains GSTAT's own application: quoted Nestle is expressly *prima facie* and Reckitt paragraph 158 concerns DGAP report timing. Section 74 is the respondent's analogy, not a tax-demand determination. The incomplete Rule 133(3)(c) quotation and conflicting interest endpoints are not repaired by importing the statutory text. Targeted penalty commencement and Principal Bench empowerment instruments were also checked.

Treatment note

The collected original remains hash-bound and fully read. A fresh request for the exact official PDF returned a tunnel 403; no successful fresh retrieval or four-of-four byte verification is claimed, and the access restriction was not bypassed. Bounded official-domain/name/docket searches on 13 October 2026 identified no authenticated later order modifying, staying, reviewing or reversing this precise final. Search absence is not a no-appeal/no-stay or enforceability certificate. P. T. Rajan, Nestle and Urban Essence are used as quoted or applied by GSTAT, not claimed as independently verified complete authorities in this review. Targeted Reckitt primary passages were checked; the connected Supreme Court order of 31 July 2024 is procedural only. Actual Fund deposit, correction of the interest endpoints and compliance remain unverified.

Scope of source review

One Principal Bench anti-profiteering judgment concerning a Subway franchise at Amanora Mall, Pune. Own merits reasons determine limitation, rate-cut-day price increases, evidentiary sufficiency and the investigation-period objection. Recomputed principal is adopted after those findings; the final is not merely acceptance of a report or an outlet-closure order. No industry-wide price-freeze or all-GSTAT coverage is claimed.

Identity note

NAPA/2/PB/2025; reference ZA070010226000103H; Mayank Kumar Jain, Court II; typed and visible signature date 20 February 2026. Adopted Rs. 13,32,322 differs from the earlier Rs. 15,66,821 proposal. Paragraph 55 interest to deposit conflicts with operative paragraph 58 and summary ending 30 September 2019. Period, table cross-reference and quotation defects remain disclosed. No express numerical compliance deadline; no pre-2020 penalty; no cryptographic signature validation claimed.

Primary source

Source description: Complete 23-page official corpus 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: 23

Outcome type: mixed

Additional source

Central Tax (Rate) Notification 46/2017, 14 November 2017

Source document: [Open source document](#)

Pinpoint: Complete three-page instrument; restaurant entry amendment, no-ITC condition and 15 November 2017 commencement. Maharashtra SGST counterpart not separately retrieved.

Central Tax Notification 31/2019, 28 June 2019

Source document: [Open source document](#)

Pinpoint: Targeted pp. 1 and 5, clause 17(c): express Fund-interest amendment; does not resolve AJ's conflicting end dates.

Central Tax Notification 01/2020, 1 January 2020

Source document: [Open source document](#)

Pinpoint: Complete one-page commencement instrument for Finance (No. 2) Act 2019 Section 112, inserting Section 171(3A) from 1 January 2020.

Central Tax Notification 18/2024, 30 September 2024

Source document: [Open source document](#)

Pinpoint: Complete one-page institutional instrument effective 1 October 2024; Principal Bench anti-profiteering competence only.

Reckitt Benckiser, Delhi High Court, 29 January 2024

Source document: [Open source document](#)

Pinpoint: Targeted paragraphs 117–119, 153–158 and 163: commercial justification, interest/penalty framework, DGAP-report timing and preserved individual merits challenges. Not a complete 142-page reread.

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.

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