

Director General of Anti-Profiteering v. Indian Railway Catering and Tourism Corporation Limited (IRCTC)

Case number: NAPA/46/PB/2025

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

Decision date: 2026-10-14

Rail Neer transfer-price liability despite government-fixed MRP: PSU and subsidy defenses, PPP supplies, 18% interest time base and conditional 10% penalty

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

Bench: Justice Mayank Kumar Jain, Member (Judicial), and Anil Kumar Gupta, Member (Technical), Special Bench, Court II

Decision stage: Final reasoned judgment establishing Rs. 50,41,44,461 profiteering, directing equal Central/State Consumer Welfare Fund allocation within one month, interest at 18% from 28 June 2019 until deposit, and a conditional 10% penalty. IRCTC subsequently announced that an appeal was being preferred; a registered appeal or stay was not verified.

01 Facts of case and issues

IRCTC supplied Rail Neer packaged drinking water to railway departmental units, licensees and contractors, using its own plants and supplies purchased from PPP plants. The Railway Board fixed the retail MRP, historically Rs. 15 per one-litre bottle; IRCTC controlled the transfer price charged to its immediate recipients. The then CGST and Central Excise Audit Thane Commissioner complained that the benefit of the tax reduction on GST's introduction had not been passed on. The Standing Committee's reference was received on 3 June 2020 and DGAP issued notice on 26 June 2020.

DGAP's report dated 11 June 2021 investigated 1 July 2017–31 May 2020 and quantified Rs. 50,41,44,461, including tax on the excess collected. It compared category-wise April–June 2017 average base prices net of pre-GST taxes with actual later invoices. Transfer-price categories were Rs. 120 per 12-bottle carton within 75 km, Rs. 126 beyond 75 km and Rs. 112 ex-plant. The source's worked illustration gives a net base of Rs. 93.24, an 18%-GST-inclusive benchmark of Rs. 110.01 and an actual Rs. 120 carton price, yielding a displayed Rs. 9.99 excess. This is not a direct seven-percentage-point calculation on the Rs. 15 retail MRP.

IRCTC relied on its lack of authority over MRP, its government welfare mandate and below-market pricing, water supplied as part of premium-train services, new post-GST PPP plants, increasing costs, a proposed one-year investigation limit, and alleged absence of methodology disclosure in the notice. The Tribunal recorded the institutional succession from NAA to CCI and then GSTAT. Its judgment was reserved on 17 September and pronounced on 14 October 2026.

Pinpoint: Identity and dates: physical pp. 1–2 and paragraph 62, p. 42. Complaint and report: paragraphs 1–10, pp. 2–9. Transfer categories and worked computation: paragraph 10(ii)–(vi), pp. 6–9. Defenses and jurisdictional history: paragraphs 11–17, pp. 9–16.

02 Discussion by Hon'ble Tribunal

The Tribunal rejected the notice and natural-justice objection because IRCTC had been informed of the tax-benefit complaint, participated in the investigation and supplied invoice and return material. It treated the computation as one based on transfer price. Paragraph 25's characterization that the notice did not allege an unreduced MRP sits uneasily with the reproduced notice's express MRP reference; the note reports the Tribunal's conclusion without suppressing that source tension.

The core holding distinguishes the Ministry's retail-MRP power from IRCTC's authority to fix transfer prices. IRCTC could and should have passed the tax benefit through its own transfer price. Premium-train water was included in the fare and was not excluded as complimentary. Section 171 was held to contain no exception for a registered public-sector supplier, a sovereign-welfare rationale, or subsidised/complimentary supplies. This is a pass-through ruling on IRCTC's supplies, not a general ruling that every government service is taxable.

The Tribunal also accepted inclusion of PPP/new plants because IRCTC ultimately sold the product at common prices. Its observation that IRCTC would not accept a PPP bid above its own rates is attributed judicial inference, not independently verified commercial evidence. The judgment does not exclude a plant simply because it began operations after GST.

IRCTC's cost explanation failed on this record. Importantly, the judgment quotes Reckitt Benckiser paragraphs 117–119, which recognize genuine commercial price increases and a rebuttable presumption requiring cogent justification. The decision should not be used as an absolute price freeze or a rule that an unchanged tax-exclusive base must always be reduced again. The accepted comparison concerns the tax-inclusive transfer price and the actual base-price data.

No fixed investigation period was identified. The Tribunal accepted 1 July 2017–31 May 2020 as reasonable in view of the benefit's commencement and the June 2020 referral; it did not establish a universal three-year period. It rejected the demand for advance disclosure of DGAP's specific methodology in the initiating notice and endorsed a case-specific, fair and reasonable comparison, relying on Reckitt Benckiser paragraphs 124–126. Neither the complete invoice dataset nor a separate auditable ITC computation is reproduced.

Source figures require care. Paragraphs 3 and 45 describe a 25% pre-GST burden; paragraphs 47 and 50 use about 28.75% including surcharge, while the worked table applies excise valuation with abatement. Paragraphs 25–27 print the report year as 2020, against 2021 in the introductory and operative passages. The notice reproduced on p. 24 contains incongruous construction-service/ITC language. The 22 state amounts on pp. 8–9 add to Rs. 50,41,44,462, one rupee above the printed and ordered Rs. 50,41,44,461; the operative amount is preserved. The table also prints Assam code 10 and Bihar code 18. These are source defects, not corrections to the legal award.

Pinpoint: Notice and participation: paragraphs 21–28, physical pp. 22–27. Transfer-price holding: paragraphs 29–33, pp. 27–28. Fare, subsidy and PSU issues: paragraphs 34–37, pp. 28–30. PPP plants: paragraphs 38–40, pp. 30–31. Costs: paragraphs 41–43, pp. 31–33. Investigation period: paragraphs 44–45, pp. 33–34. Methodology: paragraphs 46–51, pp. 34–38. State table: paragraph 10(vi), pp. 8–9.

03 Judicial decision and operative relief

The Tribunal accepted DGAP's report dated 11 June 2021 and established Rs. 50,41,44,461 profiteering in contravention of Section 171. Paragraph 58 directs deposit within one month from the order in Central and State Consumer Welfare Funds in the ratio 50:50, following DGAP's state-wise allocation. Where a State or Union Territory has no Consumer Welfare Fund, its share of principal with interest is to go to the Central Fund.

Paragraph 59 imposes interest at 18% under Rule 133(3)(c) from 28 June 2019 until deposit of the profiteered amount. Paragraphs 52–53 reject interest for earlier time. No interest sum, invoice-wise accrual schedule or distinct post-28 June 2019 principal pool is supplied. The direction must not be restated as interest running from July 2017 or confined only to sales made after June 2019. Nor does this note calculate all interest as though the eventual liability necessarily existed in full on the common printed start date.

Section 171(3A) is treated as effective from 1 January 2020; because the investigated contravention extended past that date, paragraphs 54–55 hold a 10% penalty leviable. No post-1 January 2020 apportionment or separate rupee penalty is quantified. Under operative paragraph 60, IRCTC is not liable for that penalty if the entire profiteered amount along with interest is deposited within thirty days from the order. This is a conditional penalty, not an unconditional additional Rs. 5.04 crore demand.

There is a material wording distinction: paragraph 55 and the statutory proviso quoted at paragraph 54 refer to timely deposit of the profiteered amount, while operative paragraph 60 adds interest. The summary follows the operative principal-plus-interest condition and preserves the inconsistency. The one-month principal-deposit wording and thirty-day penalty-avoidance wording are not silently equated or turned into a calculated last date.

Copies are directed to the applicant, respondent and concerned CGST/SGST Commissioners for necessary action. There is no remand or identified-passenger refund order. Actual payment, Fund allocation, penalty avoidance and compliance have not been verified.

Pinpoint: Liability: paragraph 51, physical p. 38. Interest reasoning: paragraphs 52–53, pp. 38–40. Penalty reasoning: paragraphs 54–55, p. 40. Accepted report and all operative monetary/circulation directions: paragraphs 56–61, p. 41; pronouncement: paragraph 62, p. 42.

04 In favour of

DGAP and consumer-welfare interests on the principal determination and rejected pricing and statutory-scope defenses; interest is temporally limited to 28 June 2019 onward and the 10% penalty is subject to the operative thirty-day deposit condition. No unconditional penalty payment, completed compliance or appellate stay is inferred.

Final substantive GSTAT adjudication accepting the investigation report after addressing contested transfer-price, public-sector, PPP, cost, duration and methodology defenses. Final describes the adjudicative stage, not exhaustion of appeal remedies or present compliance. The subsequent primary disclosure records an appeal being preferred but identifies no registered case or judicial protection.

Pinpoint: Paragraphs 24–61, physical pp. 25–41; IRCTC disclosure dated 15 October 2026, physical pp. 1–2.

05 AKHB REVIEW POINT

AKHB analysis: In regulated-MRP supply chains, identify who controls each actual supply price and retain invoices separating transfer price, tax-exclusive base and retail MRP. A lack of power over the final consumer price does not necessarily excuse the supplier's own pass-through duty. A public-service mandate, subsidy or bundle should be supported by the actual pricing and recipient evidence rather than treated as an automatic exemption.

Preserve contemporaneous cost records and the decision linking a genuine commercial increase to the disputed price. Test comparable categories, pre-period weighting, tax valuation, PPP sourcing and invoice-level calculations. The quoted commercial-price exception matters, but unsupported general explanations will not resolve the evidence problem. A one-rupee printed allocation mismatch is a reason to reconcile execution figures, not to overwrite the ordered principal.

For compliance or challenge, separate the one-month deposit requirement, the thirty-day conditional-penalty provision, the 28 June 2019 interest start, and the 1 January 2020 penalty commencement. Obtain the underlying transaction dates and an authoritative resolution of any principal-base, interest, allocation or waiver ambiguity. The order itself supplies no safe numerical apportionment. An announced appeal is not evidence of a stay; verify an actual filing and signed interim order before advising on enforcement.

Pinpoint: AKHB commentary based on paragraphs 10, 24–55 and 57–61, physical pp. 6–9, 25–41; appeal qualification based on IRCTC exchange disclosure dated 15 October 2026, physical p. 2.

Sources and limitations

Relevant provisions

CGST Act 2017: Section 171(1), commensurate rate-benefit pass-through and final liability; CGST Act 2017: Section 171(3A), conditional 10% penalty and thirty-day deposit proviso; temporal and operative-wording qualifications preserved; CGST Rules 2017: Rule 133(3)(c), interest and Consumer Welfare Fund directions; CGST Rules 2017: Rules 128 and 129, complaint, investigation and report history; CGST Rules 2017: Rule 126, case-specific methodology as discussed through Reckitt Benckiser; CGST Rules 2017: Rules 113(1) and 115, administrative Form GST APL-04A heading only; Notification 31/2019–Central Tax, 28 June 2019, as identified by the Tribunal for interest commencement; not separately re-audited

Statutory note

Section 171(1) supplies the commensurate price-reduction duty; Section 171(3A) and its thirty-day proviso govern the penalty discussion. The judgment applies Rule 133(3)(c) to interest and Fund allocation, attributes the interest commencement to Notification 31/2019–Central Tax dated 28 June 2019, and treats the penalty subsection as effective 1 January 2020. Rules 128 and 129 concern complaint and investigation; Rule 126 concerns methodological flexibility. Rules 113(1) and 115 appear in the administrative form. These are the provisions as discussed in this judgment; no fresh complete current-law consolidation, appellate-remedy opinion or independent validation of every notification has been undertaken. The reported 18% product rate and historical MRP relate to the litigated period, not current product-pricing advice. Paragraph 11(V)(d) separately records a September 2025 revision to Rs. 14; this note does not certify present MRP.

Treatment note

Checked to a bounded scope on 17 October 2026. The official GSTAT listing records the 14 October 2026 final and posting on 15 October. IRCTC's 15 October 2026 exchange-hosted disclosure says an appeal is being preferred before the competent court. It identifies no court, registered case number, filing date, stay or appellate outcome. Narrow official-domain searches on GSTAT/NAA, Delhi High Court and Supreme Court sources yielded no later judicial order in this pass. That is not a complete registry/docket check or proof that no appeal, stay or other order exists. Verify current case status and any signed protection before reliance. Deposit and compliance remain unverified.

Scope of source review

One 42-page final GSTAT anti-profiteering judgment concerning Rail Neer supplies for 1 July 2017–31 May 2020, read in full, plus the two-page official IRCTC exchange disclosure of 15 October 2026. Original PDF pp. 8–9 and 40–41 were visually checked against extracted text for the state allocation and operative directions. Underlying invoices, complete DGAP annexures and a registered appellate docket were not independently obtained. No complete GSTAT or current-law coverage is claimed.

Identity note

NAPA/46/PB/2025; order reference ZA070011026000109H; judgment reserved 17 September and pronounced 14 October 2026; official listing posted 15 October. Form case date 16 June 2021 is not the judgment date. Printed report-year variants 2020/2021, 25%/approximately 28.75% pre-GST descriptions,

notice wording, state-table one-rupee mismatch and Assam/Bihar code labels remain qualified. Operative principal is Rs. 50,41,44,461. The form's generic confirmed-order field does not identify a separate earlier adjudication; the substantive order accepts the DGAP report.

Primary source

Complete official 42-page judgment, including administrative summary and reasoned final order; all text read, selected tabular and operative pages visually checked by the AI author.

[Open original judgment](#)

Source pages: 42

Outcome type: final

Official GSTAT final-order listing for IRCTC

[Open cited source](#)

Pinpoint: Final NAPA/46/PB/2025 dated 14 October 2026; posting date 15 October 2026. Verified on 17 October 2026.

IRCTC exchange disclosure, 15 October 2026

[Open cited source](#)

Pinpoint: Physical pp. 1–2 describe the final monetary directions; p. 2 says an appeal is being preferred. This is the company's statement, not a registered court case or stay order.

Disclosures and source rights

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

General disclaimer: For professional information only; not legal advice. Read the judgment and applicable law in full and obtain case-specific advice before reliance. Subsequent treatment and compliance are unverified except to the expressly stated source scope.

©AKHB & Associates. This copyright notice applies to the original AKHB research note, analysis and presentation. It does not assert ownership of the reproduced official judgment or other source materials.

Source checked: 2026-10-17