

## M/s Flipkart Internet Pvt. Ltd. v. The State of Bihar & Ors. (with Sanyog Construction Private Limited and Summit Digital Infrastructure Limited)

**Case number:** CWJC No. 1848 of 2023 with CWJC Nos. 2291 and 2606 of 2023

**Citation:** 2023(9) eILR(PAT) HC 3709 (official retained eILR edition)

**Decision date:** 19 September 2023

GST appeal pre-deposit through the electronic credit ledger, limitation and later Supreme Court protection

**Court:** Patna High Court

**Bench:** Hon'ble Mr. Justice Chakradhari Sharan Singh and Hon'ble Mr. Justice Madhuresh Prasad

**Decision stage:** Final High Court dismissal on appellate maintainability, materially qualified by direct Supreme Court orders: observations in paragraphs 77–78 stayed on 4 December 2023; revival/refund-application liberty granted on 25 November 2025; leave granted in Flipkart's challenge on 22 May 2026. These verified orders contain no final Supreme Court merits ruling on ledger eligibility. Official Supreme Court docket checked 13 October 2026 records Civil Appeal 8086/2026 pending.

### 01 Facts of case and issues

Three taxpayers challenged rejection of their Section 107 appeals after using the electronic credit ledger (ECRL) for the disputed-tax pre-deposit. Flipkart's FY 2017–18 credit-mismatch demand was Rs. 63,92,183, comprising tax and penalty. It used credit for the BGST/IGST pre-deposit but cash for CGST. Sanyog's vehicle-credit dispute carried an additional limitation objection; Summit's dispute concerned capital goods and services for telecommunications towers.

The common question was whether credit-ledger debit satisfied Section 107(6)(b), or payment had to come from the electronic cash ledger (ECL). Sanyog also invoked delayed receipt of a certified copy; Flipkart alleged rejection without notice of the deposit defect.

**Pinpoint:** Paragraphs 1–17, physical pp. 6–12; paragraphs 27–34, pp. 16–19. The signed judgment starts at physical p. 4.

### 02 Discussion by Hon'ble Court

The High Court treated the pre-deposit as an amount equivalent to disputed tax, rather than payment of output tax itself. It read Section 49(4) as limiting credit-ledger use to output tax, while Section 49(3) and Rule 85(4) permitted cash-ledger payment of other statutory amounts. It therefore held the latter provisions governed this deposit.

The Bench considered Circular 172/04/2022-GST and the 28 October 2022 instructions insufficient to expand credit utilisation. It distinguished admitted-payment and disputed-deposit components in the appeal form, rejected reliance on surplus credit, and expressly disagreed with Oasis Realty and the cited Odisha/Madras approaches. Legacy MODVAT/CENVAT authorities were distinguished.

## 02 Discussion by Hon'ble Court

The natural-justice objection failed in the Court's statutory analysis. Separately, Sanyog's appeal exceeded the three-month period plus the further condonable month. The Rule 108(3) certified-copy amendment did not cure late institution. These are the High Court's historical conclusions; later Supreme Court intervention materially qualifies their practical use.

**Pinpoint:** Paragraphs 44–61, physical pp. 23–38; paragraphs 62–73, pp. 38–48; paragraphs 74–76, pp. 48–55.

## 03 Judicial decision and operative relief

The High Court dismissed all three writ petitions, leaving the appellate rejection orders undisturbed. It granted no refund, remand or relief on the underlying credit demands. The separate limitation finding concerned Sanyog.

Later, the Supreme Court stayed the observations in paragraphs 77–78 on 4 December 2023. On 25 November 2025 it permitted the petitioners in SLP(C) Nos. 25437/2023 and 324/2024 to seek revival within two weeks, without delay/pre-deposit objections, and to apply for specified refund relief. On 22 May 2026 it granted leave in Flipkart's challenge; the separate SLP 324/2024 was dismissed as infructuous. Those orders do not finally decide the ledger issue or automatically award refunds.

**Pinpoint:** High Court paragraphs 70 and 77–79, physical pp. 45 and 55–56; Supreme Court 4 December 2023, p. 1; 25 November 2025, pp. 2–3; 22 May 2026, paragraphs 1–5, pp. 2–3.

## 04 In favour of

**Revenue in the High Court's original disposition, subject to the subsequent Supreme Court stay and taxpayer-specific procedural relief. No final Supreme Court merits victory for either side is established by the orders reviewed.**

Historical High Court dismissal; direct Supreme Court challenge admitted after interim protection and revival-application liberty. The underlying tax merits were not determined by this High Court judgment.

**Pinpoint:** High Court paragraphs 77–79; direct Supreme Court orders identified above.

## 05 AKHB REVIEW POINT

AKHB analysis: Do not cite this decision alone as a presently settled cash-only rule. Obtain the latest direct appellate orders and applicable jurisdictional authority before choosing the deposit route. Preserve the appeal acknowledgement, ledger debits, demand breakup and communication dates.

Separate tax from interest and penalty, eligible credit from disputed entitlement, and filing limitation from later document defects. The November 2025 directions are party-specific and time-bound; they create no general extension or automatic refund. A stay and grant of leave are not a final reversal.

**Pinpoint:** AKHB commentary based on the High Court reasoning and identified Supreme Court orders; not additional judicial directions.

## Sources and limitations

### Relevant provisions

CGST/BGST Acts 2017 Sections 2(62), 2(82), 16, 17(5), 41, 49(3)–(4), 73 and 107(1), (4), (6); CGST/BGST Rules 85(4), 86 and 108; CBIC Circular 172/04/2022-GST dated 6 July 2022 and instructions dated 28 October 2022; Article 226 of the Constitution.

### Statutory note

The ruling concerns the historical pre-deposit dispute, not the merits of every ITC demand. Paragraph 51's broad description of the admitted-payment component must not be used to authorise credit-ledger payment of interest, penalty or fees: the judgment itself quotes their exclusion in paragraph 45. Nor does the limitation reasoning eliminate every legally available writ remedy.

India Code's current CGST compilation was checked on 13 October 2026 at physical pp. 50–51 and 85. It records substitution of Section 41 and omission of Sections 42, 43 and 43A from 1 October 2022, while Section 49(4) includes conditions and restrictions. Section 107 retains the three-month appeal period and additional condonable month; its deposit ceiling and penalty-only proviso have later amendments. The judgment's legacy/provisional-credit wording and incomplete statutory extracts are not a current consolidated statute. This targeted central-law check does not independently audit corresponding Bihar amendments, all rules, amnesties or the full history of the cited circulars. Current statutory requirements and case-specific judicial protection must be checked together.

### Treatment note

Checked 13 October 2026. The direct Supreme Court order dated 4 December 2023 in SLP(C) 25437/2023 expressly identifies CWJC 1848/2023 and the 19 September 2023 judgment. It issues notice and stays the observations in paragraphs 77 and 78 pending disposal. The exact initial stay is of those observations; it should not be paraphrased as a final reversal of the entire judgment.

The direct order dated 25 November 2025, pp. 2–3, permits the petitioners in SLP(C) Nos. 25437/2023 and 324/2024 to apply for revival of their statutory appeals within two weeks, having regard to Raiyan Traders. Such applications were to be considered bearing in mind the pending petitions and the stay in Flipkart. The Department/appellate authority was not to raise delay or pre-deposit objections. Liberty to apply for relief concerning cash payment and excess recovery is not itself a refund award. Directions in the separately headed Diary 508/2025 portion concern another connected proceeding and are not silently attributed to Flipkart.

On 22 May 2026, paragraphs 1–3, the Supreme Court condoned delay, granted leave in SLP(C) 25437/2023 and connected Diaries 508/2025 and 16382/2026, and directed September listing. Paragraphs 4–5 separately dismissed SLP(C) 324/2024 as infructuous on counsel's statement. Dismissal of that separate petition is not dismissal of Flipkart's challenge or approval of the cash-only ratio. The 20 January 2026 record was also checked; its operative adjournment is expressly headed Diary 508/2025.

The official Supreme Court diary search, inspected in the cloud browser on 13 October 2026, identifies Civil Appeal No. 8086/2026, registered 23 May 2026, arising from SLP(C) 25437/2023, diary 46593/2023, CNR SCIN010465932023. It records PENDING, admission on 22 May 2026, and the stage "PENDING[] (Final Hearing) Not taken up/ Not Today-Ord dt:08-10-2026". The "Present/Last Listed On" field displays 14 October 2026, a future listing entry rather than proof that a hearing occurred or will proceed. Earlier Court Details independently marks CWJC1848/2023, 19 September 2023, as the challenged judgment; it lists the two companion writs but marks them "No" under Judgment Challenged for this diary. The returned Judgment/Orders list has 17 entries, including connected matters; its newest

entry is the verified 22 May 2026 main-case order. No later order is present in that returned set. The four material direct records identified above were individually reviewed; the other historical/connected entries were not each substantively audited.

Bounded exact-party, CWJC/SLP/diary-number, decision-date, stay and later-order searches, including official Supreme Court and Patna domains, did not establish a subsequent merits disposition. A 30 September 2026 date-specific lookup had returned no usable PDF; that failed lookup is not the basis for the pending-status conclusion. Secondary summaries were used only as leads. Actual restoration/refund applications and resulting appellate orders, full Raiyan Traders text and every connected case were not independently obtained. This is a dated, bounded docket/treatment check, not an exhaustive citator or assurance about unuploaded orders.

### Scope of source review

All 56 physical pages of the retained official PDF were fully read and individually visually inspected. Physical pp. 1–3 are reporter material; pp. 4–56 contain the signed judgment's printed pp. 1–53. The four direct Supreme Court records dated 4 December 2023, 25 November 2025, 20 January 2026 and 22 May 2026 were fully read and all ten pages individually visually inspected. The India Code check was confined to targeted statutory text. Cited precedents are described as the High Court discusses them, without claiming separate full-source review of every authority.

### Source notes

The retained official edition visibly carries 2023(9) eILR(PAT) HC 3709. A separate official search result uses eILR number 3487; this note uses the retained edition's visible citation and does not present it as a separately verified neutral citation. The decision date is 19 September 2023; the signed judgment records upload on 31 October 2023. The reporter headnotes are not substituted for the judicial reasons.

A fresh official download on 13 October 2026 contains 56 pages and 363,391 bytes. Its SHA-256 differs from the preserved corpus original, but page-by-page extracted text and rendered pixels match across every page; byte identity is not claimed. Original bytes remain unchanged. Digital-signature cryptographic validity was not tested.

Paragraph 66's plural reference to appeals is read with paragraphs 5, 14–15, 62–65 and 70, which identify Sanyog's separate limitation issue. A further month is not universally interchangeable with 30 days. Paragraph 17 prints a Section 73(9) reference when describing rejection; the principal ledger reasoning is stated in Sections 49 and 107 and Rule 85(4).

### Primary source

**Source description:** Official Patna High Court eILR judgment

**Official source:** [Open source document](#)

**Source pages:** 56

**Judgment author:** Madhuresh Prasad, J. (oral); Chakradhari Sharan Singh, J. concurring

**Outcome type:** final hc dismissal with sc stay and leave granted

**Additional source**

Supreme Court direct order dated 4 December 2023

**Official source:** [Open source document](#)

**Pinpoint:** SLP(C) 25437/2023, p. 1: notice and stay of observations in HC paragraphs 77–78; checked 13 October 2026.

Supreme Court direct order dated 25 November 2025

**Official source:** [Open source document](#)

**Pinpoint:** SLP(C) Nos. 25437/2023 and 324/2024, pp. 2–3: revival-application liberty, timing, objections and refund-application liberty; checked 13 October 2026.

Supreme Court direct order dated 22 May 2026

**Official source:** [Open source document](#)

**Pinpoint:** Paragraphs 1–3, p. 2: leave granted including Flipkart; paragraphs 4–5, p. 3: separate SLP324/2024 dismissed as infructuous; checked 13 October 2026.

India Code CGST Act compilation

**Official source:** [Open source document](#)

**Pinpoint:** Targeted physical pp. 50–51 and 85, Sections 41, 49 and 107 and amendment footnotes; checked 13 October 2026.

Supreme Court official current docket for diary 46593/2023

**Official source:** [Open source document](#)

**Pinpoint:** Case Details, Earlier Court Details and 17-entry Judgment/Orders list, checked 13 October 2026; pending Civil Appeal8086/2026 and latest returned order22May2026. Interactive search may be required.

**Disclosures and source rights**

**AI disclosure:** Prepared with AI assistance from the complete official judgment and identified primary sources. No human legal review is claimed.

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**Source checked:** 2026-10-13