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Excess IGST Adjusted Against CGST and SGST Without Following the Refund Route Is a Procedural Lapse and Cannot Invite Fresh Demand

The GST Appellate Tribunal, Bengaluru Bench (**"GSTAT"**) in ***Commissioner of Central GST, Bengaluru v. M G Automobiles Sales and Services [Appeal No. APL/43/BUR/2026 dated October 08, 2026]*** dismissed the Revenue's appeal and upheld the order of the First Appellate Authority setting aside the demand of CGST and SGST along with interest and penalty on the ground that the assessee had adjusted excess IGST, arising from an erroneous payment of output tax on credit notes, against its CGST and SGST liability, and held that such cross-head adjustment, though procedurally incorrect, was bona fide and revenue neutral during the first year of GST implementation and could not justify a fresh demand.

Facts:

M/s M G Automobiles Sales and Services (**"the Respondent"**), a partnership firm in Ballari, Karnataka, is engaged in the sale and service of motor vehicles and parts.

During September, October and November 2017, the Respondent received credit notes from its supplier and, instead of reversing the corresponding ITC, added the tax attributable to those credit notes to its output tax liability and paid it in GSTR-3B by utilising ITC from the electronic credit ledger (CGST Rs 3,53,544, SGST Rs 3,53,544 and IGST Rs 22,30,083).

In December 2017, on realising the error, the Respondent reversed the ITC and reduced its output tax liability in GSTR-1 and GSTR-3B, reporting only the net figures. As there was no sufficient IGST output liability in that month and GSTR-3B had no column to carry forward the excess, the Respondent adjusted the excess IGST of Rs 22,30,083 on its own against its CGST liability of Rs 11,15,064 and SGST liability of Rs 11,15,064 for December 2017, without claiming a refund.

Pursuant to an audit, a show cause notice was issued under Section 73(1) of the CGST Act, 2017 proposing to recover Rs 22,30,083 as short-paid IGST along with interest and penalty. The Adjudicating Authority confirmed a demand of Rs 22,30,128 (CGST Rs 11,15,064 and SGST Rs 11,15,064) with interest and penalty under Sections 50 and 73(9). The First Appellate Authority set aside the order, holding that the tax had already reached the exchequer, there was no net loss of revenue and a lenient view was warranted in the initial period of GST. The Revenue, after a review under Section 112(3), appealed to the GSTAT.

The Revenue contended that Sections 9 and 49 mandate payment under the specific tax heads, that no provision permits "offsetting" an IGST overpayment against CGST and SGST through GSTR-3B, that Circular No. 26/26/2017-GST dated December 29, 2017 allows adjustment only within the same head in subsequent months, that the only remedy for overpayment was a refund under Section 54 and that revenue neutrality cannot override the statutory mechanism.

The Respondent contended that all payments (except RCM) were made by utilising ITC, that Section 49 permits cross-utilisation of IGST credit towards CGST and SGST, that the adjustment followed Para 4 of the said Circular, that the excess IGST would in any case have been absorbed by its IGST liability of Rs 1,04,84,872 for March 2018, and that there was effectively no short payment. It also relied on decisions of the Kerala, Allahabad and Madras High Courts on payment under a wrong tax head.

Issues:

1. Whether the Respondent could, on its own, adjust the excess IGST arising from an erroneous payment of output tax on credit notes against its CGST and SGST liability for December 2017 through GSTR-3B, without claiming a refund under Section 54 or carrying the amount forward against IGST liability of subsequent months?

2. Whether the decisions on payment under a wrong tax head were applicable to such utilisation of excess IGST against CGST and SGST?

3. Whether such adjustment, being procedurally incorrect but bona fide and revenue neutral in the first year of GST, could sustain the demand of tax, interest and penalty under Section 73?

Held:

The GST Appellate Tribunal, Bengaluru Bench in ***Appeal No. APL/43/BUR/2026*** held as under:

- Observed that, during July 2017 to March 2018 there was no provision under the Act or Rules requiring a recipient to reverse ITC on receipt of a credit note, and the notice's premise that ITC ought to have been reversed had no legal support.

- Noted that, GSTR-3B had no column to carry forward excess tax and, in terms of Para 4 of Circular No. 26/26/2017-GST, the Respondent had correctly reported only the net figures in GSTR-1 and GSTR-3B.

- Noted that, had the Respondent claimed a refund of the excess IGST under Section 54, the amount debited from the electronic credit ledger would have been re-credited as IGST ITC under Rule 92(1A), usable towards CGST and SGST under Section 49; the other option was to adjust the excess against IGST liability of subsequent months. The only infraction was that the refund and re-credit procedure was not followed.

- Held that, the wrong-head decisions relied upon (Kerala, Allahabad and Madras High Courts) do not directly apply, as the case concerns utilisation of excess IGST against CGST and SGST and not payment of CGST and SGST as IGST, though the principle that an assessee should not suffer where there is no loss of revenue supports the Respondent.

- Held that, the initial payment of tax and subsequent reversal of ITC show bona fide conduct, the adjustment caused no revenue loss, and a lenient view is warranted for errors in the first year of GST, relying on the Hon'ble Karnataka High Court in *Orient Traders*.

- Condoned the variance between the notice (IGST Rs 22,30,083) and the order (CGST and SGST Rs 22,30,128) as a departmental oversight in the initial phase of GST.

- Hence, dismissed the appeal and set aside the demand of tax, interest and penalty for July 2017 to March 2018, with no order as to costs.

Our Comments:

The dispute turns on the interplay of Sections 49, 54 and 39(9) of the CGST Act. Section 49(4) permits the amount in the electronic credit ledger to be used for payment of output tax, and Section 49(5)(a) provides that IGST credit is first utilised towards IGST and the balance towards CGST and SGST. The Revenue's case was that this covers utilisation of credit and not adjustment of excess output tax already paid under one head. The Tribunal bridged the gap through Section 54 read with Rule 92(1A) of the CGST Rules, 2017, under which a refund of tax paid by debiting the electronic credit ledger is re-credited through FORM GST PMT-03 as ITC in the same ledger. As the same IGST would thus have become available for CGST and SGST, the direct adjustment was treated as a shortcut that skipped the procedure and not as a loss to the exchequer.

Para 4 of Circular No. 26/26/2017-GST clarifies that, as GSTR-3B has no provision for differential figures of past months, corrections are to be made on a net basis in the return of the month in which the error is noticed, with no negative entries, the balance being adjusted in subsequent months and a refund being claimed where adjustment is not feasible. The Tribunal read this as supporting the net reporting by the Respondent but not the cross-head set-off, which it described as a procedural lapse that was condoned. Once the amount was treated as already paid, there was no short payment to attract Section 73 or interest under Section 50.

The Tribunal also noted that, for 2017-18, a recipient was not required to reverse ITC on a credit note: Section 34 operated only on the supplier's output tax liability, the matching under Section 43 was never operationalised and the section was omitted with effect from October 01,

2022. The proviso to Section 34(2) has since been substituted with effect from October 01, 2025 to link the supplier's reduction of output tax with reversal of ITC by the recipient, so credit notes must now be handled under the amended mechanism.

Pari materia and supportive decisions

The Hon'ble Kerala High Court in *Saji S. v. Commissioner, State GST Department* [2018 (19) GSTL 385 (Ker); W.P.(C) No. 35868 of 2018 dated November 12, 2018] directed that tax and penalty remitted under the SGST head instead of IGST be transferred to the IGST head, reading Section 77 along with Rule 92. The Tribunal drew on its principle that an assessee should not suffer for a technical error where there is no loss of revenue.

The Hon'ble Karnataka High Court in *Orient Traders v. Deputy Commissioner of Commercial Taxes (Audit)-3* [W.P. No. 2911 of 2022 dated December 16, 2022] took a lenient view of bona fide errors in GSTR-3B for July 2017 and March 2018 and permitted the figures to be corrected, as the periods fell in the first year of GST. The Court, however, clarified that the order was passed on peculiar facts and would not be a precedent, a caution that applies equally to the present ruling.

The Hon'ble Madras High Court in *SYA Homes v. Assistant Commissioner (ST)* [W.P. No. 23463 of 2026 dated July 07, 2026] held that where the entire tax was discharged within time but under the IGST head instead of CGST and SGST, the taxpayer cannot be made to pay again and then seek a refund, and directed appropriation of the IGST towards the CGST and SGST liability within 30 days of an application. The Court held that Section 77 and Section 19 of the IGST Act cover only cases of mischaracterisation of the supply and not a mere wrong-head payment.

The Hon'ble Karnataka High Court in *GR Tech Services Pvt. Ltd. v. Assistant Commissioner of Commercial Taxes (Audit)* [W.P. No. 15670 of 2026 (T-RES)] quashed the demand, interest and penalty where IGST had been paid on supplies later held to be intra-State, and remanded the matter for adjustment under Section 77(2) read with Rule 92.

Where the refund route is chosen, the Hon'ble Karnataka High Court in *Merck Life Science Pvt. Ltd. v. Union of India* [W.P. No. 27259 of 2024 dated November 07, 2025] held the limitation under Section 54 and Rule 89(1A) to be directory where the excess IGST was undisputed and the same tax had been discharged under the correct head, so that the refund cannot be rejected merely as time barred.

Contrary view

The Hon'ble Supreme Court in *Union of India v. Bharti Airtel Ltd.* [2021 SCC OnLine SC 1006; Civil Appeal No. 8654 of 2020 dated October 28, 2021] held that rectification of GSTR-3B is permissible only through the mechanism under Section 39(9) read with Rule 61 and that a registered person cannot unilaterally rectify an electronically filed return, given the cascading effect on other stakeholders. The Revenue is likely to rely on this decision, which the present order does not refer to; the Tribunal rested its view on revenue neutrality and the first-year context. Even the favourable High Court rulings above direct an application or an order for adjustment and do not endorse self-help.

Takeaway

The ruling is a lenient view confined to the first year of GST and to a revenue-neutral error. Going forward, excess tax paid under one head should be recovered through a refund under Section 54 with re-credit under Rule 92(1A), or carried forward against the same head in later returns, and not set off against another head in GSTR-3B. Taxpayers facing demands for similar errors in the early years may rely on this order along with the decisions above.

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(Author can be reached at info@a2ztaxcorp.com)

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