



सत्यमेव जयते

## आयुक्त(अपील) का कार्यालय,

Office of the Commissioner (Appeal),

केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद

Central GST, Appeal Commissionerate, Ahmedabad

जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015



0792630506- टेलिफैक्स 07926305136



DIN NO. : 20220764SW000000C39A

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTD/117/2021

/2715-2722

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-003-APP-ADC-43/2022-23**  
दिनांक Date : **20-07-2022** जारी करने की तारीख Date of Issue : 20-07-2022

श्री मिहिर रायका अपर आयुक्त (अपील) द्वारा पारित

Passed by Shri Mihir Rayka, Additional Commissioner (Appeals)

ग Arising out of Order-in-Original No **ZY2405210266062** dated **18.05.2021** issued by Deputy Commissioner, Central Goods and Service Tax, Division-Kalol, Gandhinagar Commissionerate

घ अपीलकर्ता का नाम एवं पता Name & Address:

### 3. Appellant

The Deputy Commissioner  
CGST, Division Kalol  
2<sup>nd</sup> Floor, Janta Super Market,  
Near Vepari Jin, Kalol

### 4. Respondent

M/s Jeet Pravinbhai Patel  
B/C-23, Swaminarayan Park-1,  
Nava Wadaj, Sabarmati, Gandhinagar-382470

(A)	इस आदेश(अपील) से व्यथित कोई व्यक्ति निम्नलिखित तरीके में उपयुक्त प्राधिकारी / प्राधिकरण के समक्ष अपील दायर कर सकता है। Any person aggrieved by this Order-in-Appeal may file an appeal to the appropriate authority in the following way.
(i)	National Bench or Regional Bench of Appellate Tribunal framed under GST Act/CGST Act in the cases where one of the issues involved relates to place of supply as per Section 109(5) of CGST Act, 2017.
(ii)	State Bench or Area Bench of Appellate Tribunal framed under GST Act/CGST Act other than as mentioned in para- (A)(i) above in terms of Section 109(7) of CGST Act, 2017
(iii)	Appeal to the Appellate Tribunal shall be filed as prescribed under Rule 110 of CGST Rules, 2017 and shall be accompanied with a fee of Rs. One Thousand for every Rs. One Lakh of Tax or Input Tax Credit involved or the difference in Tax or Input Tax Credit involved or the amount of fine, fee or penalty determined in the order appealed against, subject to a maximum of Rs. Twenty-Five Thousand.
(B)	Appeal under Section 112(1) of CGST Act, 2017 to Appellate Tribunal shall be filed along with relevant documents either electronically or as may be notified by the Registrar, Appellate Tribunal in FORM GST APL-05, on common portal as prescribed under Rule 110 of CGST Rules, 2017, and shall be accompanied by a copy of the order appealed against within seven days of filing FORM GST APL-05 online.
(i)	Appeal to be filed before Appellate Tribunal under Section 112(8) of the CGST Act, 2017 after paying - (iii) <b>Full amount of Tax, Interest, Fine, Fee and Penalty</b> arising from the impugned order, as is admitted/accepted by the appellant, and (iv) A sum equal to <b>twenty five per cent</b> of the remaining amount of Tax in dispute, in addition to the amount paid under Section 107(6) of CGST Act, 2017, arising from the said order, in relation to which the appeal has been filed.
(ii)	The Central Goods & Service Tax ( Ninth Removal of Difficulties) Order, 2019 dated 03.12.2019 has provided that the appeal to tribunal can be made within three months from the date of communication of Order or date on which the President or the State President, as the case may be, of the Appellate Tribunal enters office, whichever is later.
(C)	उच्च अपीलीय प्राधिकारी को अपील दाखिल करने से संबंधित व्यापक, विस्तृत और नवीनतम प्रावधानों के लिए, अपीलार्थी विभागीय वेबसाइट <a href="http://www.cbic.gov.in">www.cbic.gov.in</a> को देख सकते हैं। For elaborate, detailed and latest provisions relating to filing of appeal to the appellate authority, the appellant may refer to the website <a href="http://www.cbic.gov.in">www.cbic.gov.in</a> .



**ORDER-IN- APPEAL**

This appeal has been filed under Section 107(2) of the Central Goods and Service Tax Act, 2017 (hereinafter also referred to as “the Act”) by Deputy Commissioner, Central GST, Kalol Division, Gandhinagar Commissionerate ( hereinafter also referred to as “ the appellant/department “) in terms of Review Order issued under Section 107(2) of CGST Act, 2017( hereinafter referred as ‘the Act’) by the Reviewing Authority against the Order-in –Original No. ZY24052102666062 dated 18.05.2021 (hereinafter as “the impugned order”) passed by the Deputy Commissioner, Central Goods & Service Tax, Division-Kalol, Gandhinagar Commissionerate (hereinafter called as “the adjudicating authority) in the case of Shri Jeet Pravinbhai Patel[ M/s. Meerpra Enterprise ] B/C-23, Swaminarayan Park-1, Nava Wadaj, Sabarmati, Gandhinagar-382470 ( hereinafter referred as ‘Respondent’)

Appeal No. & Date	Review Order No. Date	RFD -06 Order No. Date
GAPPL/ADC/GSTD/117 /2021 Dated 10.09.2021	No. AA24052101944515 dated 04/06/2021	ZY24052102666062 dated 04.06.2021

**2. BRIEF FACTS OF THE CASE**

2.1 ‘Respondent’ having GSTIN No. 24CUCPP4237J1ZJ had filed refund application vides ARN No. AA240521019451S dated 04.06.2021 under Section 54 of CGST Act, 2017 in respect of Excess balance in Electronic Cash Ledger for the amount Rs 14,318/- with Deputy Commissioner, CGST, Kalol.

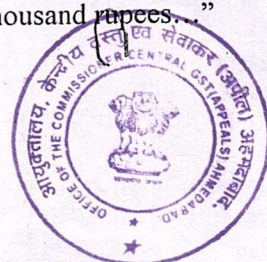
2.2. The adjudicating authority has sanctioned the refund claim for an amount of Rs. 14,318/- vide ‘*impugned order*’ No. ZY24052102666062 dated 18.05.202. The said refund order was subject to Post Audit it was observed that-

The adjudicating authority erred in sanctioning of refund so far as the CGST Act & SGST Act are concerned in light of the clarification in regards to the limit of One Thousand Rupees provided in the para 60 of the CBIC Circular No. 125/44/2019-GST dated 18.11.2019, which clearly states that the limit of rupees one thousand shall be applied for each tax head separately and not cumulatively. Adjudicating Authority has failed to ascertain correct amount of refund, which resulted into excess payment of refund of Rs. 126/- (Central Tax –Rs. 46/-+State/UT Tax –Rs. 80/- )

2.3 In the ground of appeal the ‘Department ‘has submitted that refund Sanction Order RFD -06 No. ZY24052102666062 dated 18.05.2021 sanctioning refund of Excess Balance in Cash ledger, is not legal and proper as it is not in conformity with Section 54(5) of CGST Act, 2017 and rules therein and requires/liable to extent of excess amount refunded.

2.4 As per sub-section (14) of the Section 54 of the Central Goods and Services Tax Act, 2017 (CGST Act), which is as under:

“Notwithstanding anything contained in this section, no refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees.”



2.5 The 'Department' has submitted that CBIC vide Circular No. 125/44/2019-GST dated 18.11.2019, in exercise of its powers conferred by section 168(1) of the Central Goods and Services Tax Act, 2017 (CGST Act), have further clarified the said condition vide para 60 of the said Circular, which is reproduced as under :-

“60. Sub-section (14) of section 54 of the CGST Act provides that no refund under sub-section (5) or sub-section (6) of section 54 of the CGST Act shall be paid to an applicant, if the amount is less than one thousand rupees. In this regard, it is clarified that the limit of rupees one thousand shall be applied for each tax head separately and not cumulatively.”

2.6 The 'Department' has further submitted that in the instant case, the claimant M/s. Jeet Patel Praveenbhai ( Trade Name –M/s. Meepra Enterprise ) filed the refund claim on 08.05.2021 on account of Excess Balance in Electronic Cash Ledger under Section 54(1) of CGST Act, 2017. The claimant has filed total refund amounting to Rs. 14,318/- the breakup of the Act-wise amount of refund claimed by the claimed by the claimant is as under :

- (i) Integrated Tax :- Rs. 14,192/-
- (ii) Central Tax :- Rs. 46/-
- (iii) State /UT Tax :- Rs. 80/-

2.7 Further, the adjudicating authority has sanctioned the refund for an amount of Rs. 14,318/- which is not proper in the light of the clarification in regards to the limit of one thousand rupees provided in the para 60 of the CBIC Circular No. 125/44/2019-GST dated 18.11.2019 which is clearly states that the limit of rupees one thousand shall be applied for each tax head separately not cumulatively. While passing the said OIO, Adjudicating Authority, failed to ascertain correct amount of refund, which resulted into excess payment of refund of Rs.126/- ( Central Tax Rs. 46/-+State /UT Tax Rs. 80/-). Thus excess refund of Rs. 126 is sanctioned by the sanctioned authority, which is required to be required to be recovered from the claimant.

2.8 The 'department' has further prayed that the decision of refund sanctioning authority is not legal and proper and merits to be set aside to the extent wherein he has sanctioned the excess refund amounting to Rs. 126/- claimed under Section 54 of the CGST Act, 2017, as such same is required to be recovered along with interest. Considering the said facts the department has stated that the impugned order passed by the adjudicating authority are not proper and legal and therefore prayed for relief as under:

- To set aside the impugned order to the extent of the excess refund so sanctioned.
- To pass order directing to original authority to recover the amount erroneously refunded to the claimant with interest.
- To pass any other order (s) as deemed fit in the interest of justice.

### Personal Hearing

3. Personal Hearing in the matter through virtual mode offered to the "Respondent" on 20.05.2022, 31.05.2022 and 09.06.2022. However PH letters returned back undelivered and no one appeared for Virtual Mode on the scheduled dates.



**Discussions and Findings:**

4 (i) I have carefully gone through the facts of the case available on the records, submissions made by the 'Department' in the Appeal Memorandum. I find that the correspondence /letters issued for PH scheduled on 20.05.2022, 31.05.2022 and 09.06.2022 received back undelivered from the postal authorities. Accordingly a letter was also written to the Jurisdictional Deputy Commissioner on 01.06.2022 but no response has been received till date. I find that the respondent has been given sufficient number of Personal Hearing, before deciding the matter by this appellate authority however, no one appear for PH through Virtual Mode. I left no other option but to decide the case ex-parte.

(ii) I find that the 'Department has filed the appeal against or Order No. ZY2405210266062 dated 18.05.2021 with the reason that the adjudicating authority has erred in sanctioning of refund so far as the CGST Act & SGST Act are concerned in the light of the clarification in regard to limit of One Thousand Rupees provided in the para 60 of the CBIC Circular No. 125/44/2019-GST dated 18.11.2019, which clearly states that the limit of rupees one thousand shall be applied for each tax head separately and not cumulatively.

(iii) I find that the respondent had filed the refund on account of Excess Balance in electronic Cash Ledger under section 54(1) of CGST Act, 2017. The respondent had filed total refund amounting to Rs. 14,318/- which comprise Integrated Tax Rs. 14,192/-, Central Tax Rs. 46/- and State/UT Tax Rs. 80/-.

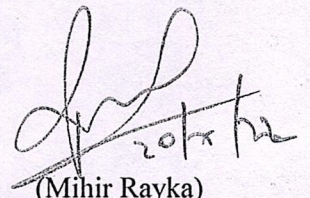
(iv) I find that as per sub-section (14) of section 54 of Central Goods and Services Tax Act, 2017 (CGST Act), no refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees.

(v) As per sub-section (14) of Section 54 of the CGST, 2017 read with para 60 of CBIC Circular No. 125/44/2019 dated 18.11.2019, the respondent had claimed excess refund of Rs, 129/-(Central Tax Rs. 46/-+ State/UT tax Rs. 80/-) as the limit of rupees one thousand shall be applied for each tax head separately and cumulatively. I find that the Adjudicating authority failed to ascertain correct amount of refund, which resulted into excess payment of refund of Rs. 126.

5. In view of above facts and discussions, I hold that the impugned orders passed by the adjudicating authority are not legal and proper and deserves to be set aside. Therefore, I allow the appeal filed by the 'department' and set aside the impugned Order passed adjudicating authority.

6. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

The appeal filed by the appellant stands disposed of in above terms.



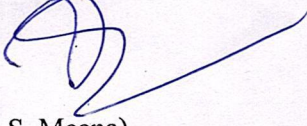
(Mihir Rayka)

Additional Commissioner (Appeals)

Date: .06.2022



Attested



(H. S. Meena)  
Superintendent  
Central Tax (Appeals)  
Ahmedabad

By R.P.A.D.

To,

The Deputy Commissioner, Central GST,  
2<sup>nd</sup> Floor, Janta Super Market, Kalol Division,  
Gandhinagar Commissionerate,-  
Shri Jeet Pravinbhai Patel,( M/s. Meepra Enterprise)  
Shop No. 5, Vajinath Avenue, Opp. Sindbad Hotel,  
K.I.R.C College Road, Kalol.

M/s. Jeet Pravinbhai Patel,  
B/C\*23, Swaminarayan Park-1, Nava Wadaj,  
Ta- Sabarmati, Gandhinagar-382470.

Copy to:

1. The Principal Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner, CGST & C.Excise, Appeals, Ahmedabad
3. The Commissioner, Central GST & C.Ex, Commissionerate- Gandhinagar
4. The Assistant Commissioner, CGST & C.Ex, Division-Kalol., Gandhinagar  
Commissionerate-
5. The Additional Commissioner, Central Tax (System), Gandhinagar
- ✓ 6. Guard File
7. P.A. File

