



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- टेलीफैक्स 07926305136



DIN NO. : 20230164SW000027582A

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/3163/2022

/ 2023-21

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-003-APP-ADC-91/2022-23
दिनांक Date : 23-01-2023 जारी करने की तारीख Date of Issue : 25-01-2023

श्री मिहिर रायका अपर आयुक्त (अपील) द्वारा पारित

Passed by Shri Mihir Rayka, Additional Commissioner (Appeals)

ग Arising out of Order-in-Original No ZM2409220187423 dated 14.09.2022
issued by the Assistant Commissioner, Central Goods and Service Tax,
Division Kadi, Gandhinagar Commissionerate

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant

M/s Supernova Engineers Ltd [GSTIN: 24AACCS6758G1Z7]
F-2, 1st Floor, Sapath Hexa, Opp. Gujarat High Court,
S.G. Highway, Ahmedabad - 380060

(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 - (i) Full amount of Tax, Interest, Fine, Fee and Penalty arising from the impugned order, as is admitted/accepted by the appellant, and (ii) A sum equal to <u>twenty five per cent</u> 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 अपीलारी प्राधिकारी को अपील दाखिल करने से संबंधित व्यापक, विस्तृत और नवीनतम प्रावधानों के लिए, अपीलार्थी विभागीय वेबसाइट www.cbic.gov.in 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 www.cbic.gov.in .



ORDER-IN-APPEAL**BRIEF FACTS OF THE CASE:**

This appeal has been filed by M/s. Supernova Engineers Limited, F-2, 1st Floor, Sapath Hexa, Opp. Gujarat High Court, S G Highway, Ahmedabad – 380 060 [hereinafter referred to as “*the appellant*”] against RFD-06 Order No. ZM2409220187423 dated 14-09-2022 [hereinafter referred to as “*impugned refund order*”] passed by the Assistant / Deputy Commissioner, CGST, Range-V, Div-Kadi, Gandhinagar Commissionerate [hereinafter referred to the “*adjudicating authority*”] on 18.10.2022 before the appellate authority.

2. Brief facts of the case in the present appeal is that the “*appellant*” registered under [GSTIN : 24AACCS6758G1Z7] and are engaged in the manufacture and sale of Diesel Gensets (DG Sets) classifiable under chapter heading 85 of First Schedule to the Customs Tariff Act, 1975. The appellant supply the goods within and outside the state of Gujarat on payment of applicable Integrated Goods and Service Tax (IGST) or CGST and SGST as the case may be. For manufacture of DG Sets, the appellant procures/ imports engines, as a raw material, on payment of applicable GST @28% of IGST. The appellant are availing eligible input tax credit of the GST paid on such inputs and other inputs which are used in manufacturing outward supply. As the rate of tax on the inputs are higher than the rate of tax on the output supply of goods, therefore, there is a accumulation of credit in the electronic credit ledger of the appellant. Accordingly, the *appellant* has filed refund claim on account of un-utilized Input Tax Credit (ITC) accumulated due to inverted tax structure for the month of May 2022 amounting to Rs. 1,04,90,677/- under Section 54 of the CGST Act, 2017. After verification of the said refund claim the refund sanctioning authority has issued a Show Cause Notice No. ZD240822093088 [RFD-08], dated 08.08.2022 proposing to reject the refund claim on the grounds that;

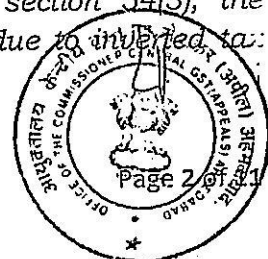
“During the verification, it is notice that as per section 54(3) second proviso CGST Act, 2017 stated that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails drawback in respect of Central Tax or claims refund of the integrated tax paid on such supplies.

In this case the taxpayer has availed the refund of IGST paid on export of goods, hence as per the declaration under second proviso of section 54(3), the applicant is not entitled to claim the refund of ITC accumulated due to inverted tax structure and simultaneously IGST refund on export of goods.”

Subsequently, the adjudicating authority has passed the *impugned refund order* [RFD-06] on dated 14.09.2022 by rejecting on the grounds that

“During the verification, it is notice that as per section 54(3) second proviso CGST Act, 2017 stated that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails drawback in respect of Central Tax or claims refund of the integrated tax paid on such supplies.

In this case the taxpayer has availed the refund of IGST paid on export of goods, hence as per the declaration under second proviso of section 54(3), the applicant is not entitled to claim the refund of ITC accumulated due to inverted tax structure and simultaneously IGST refund on export of goods.



The claimant has submitted the SCN reply dated 22.08.2022 is not legal and proper as per section 54(3) second proviso CGST Act, 2017.

I reject the refund claim amounting to Rs.1,04,90,677/- filed by M/s. SUPERNOVA ENGINEERS LIMITED vide ARN No. AA2407220576926 under the category – ITC accumulated due to inverted tax structure.”

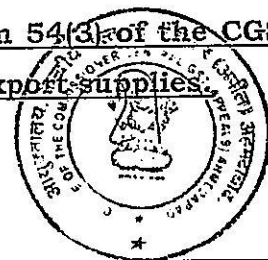
3. Being aggrieved with the impugned refund order (RFD-06), the appellant preferred the present appeal in the matter on the following grounds:

- i. That the adjudicating authority has overlooked the submissions of the appellants and mechanically rejected the refund claim of the appellants without giving any material finding or any reason for overlooking the submissions of the appellant. Thus, the impugned refund order, being a non speaking order, has been passed in gross violation of principles of equity, fair play and natural justice. For this they rely upon in the case of
 - (i) Cyril Lasardo (Dead) V/s. Juliana Maria Lasarado 2004 (7) SCC 431; and
 - (ii) Asst. Commr. Commercial Tax Department Vs. Shukla & Brothers reported a 2010 (254) ELT 6 (SC) = 2011 (22) STR (105) and therefore the impugned order is liable to be set aside on this ground.

The appellants are entitled to receive entire refund of the accumulated input tax credit on account of inverted duty structure as per Section 54(3) read with Rule 89(5) of the CGST Rules, 2017.

- ii. The appellant submits that Section 54(3)(ii) of the CGST Act, 2017 inter-alia provides for refund of input tax credit, where such input tax credit is accumulated on account of rate of tax on inputs being higher than the rate of tax on outward supplies i.e inverted tax structure. They further added that in the present case, the rate of tax on the inputs i.e Diesel Engine, attracts IGST@28% whereas the rate of tax on output i.e the DG set attracts CGST and SGST @12% (CGST@6%, SGST @6%) as per First Schedule to the Notification No. 1/2017-Central Tax (Rate) dated 28.06.2017 as amended, therefore, the present case falls under the ambit of Section 54(3) of the CGST Act, 2017, this is not in dispute.
- iii. The appellant submit that Section 54(3) of CGST Act, 2017 read with Rule 89 of the CGST Rules, vests in the appellants, a substantial right to refund in case of an inverted duty structure, the denial of refund amounts to denial of a substantial right. The appellants are eligible to claim refund under Section 54(3) of the CGST Act, 2017.

Without prejudice, the proviso to Section 54(3) of the CGST Act, 2017 shall be applicable only with respect to export supplies.



For ease of reference, Section 54(3) is reproduced as under :

"Section 54(3)

Subject to the provisions of sub-section (10), a registered person may claim refund of any un-utilized input tax credit at the end of any tax period: Provided that no refund of un-utilized input tax credit shall be allowed in cases other than :

- (i) Zero rated supplies made without payment of tax;*
- (ii) Where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council*

Provided further that no refund of un-utilized input tax credit shall be allowed in cases where the goods exported out of India are subject to export duty,

Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of Central Tax or claims refund on Integrated Tax paid on such supplies."

- iv. The appellant submits that the second proviso to Sec. 54(3) states that the refund of unutilised ITC, accumulated on account of inverted duty structure, shall not be allowed if the supplier of the goods exporter out of India avails the drawback in respect of Central Tax or claims refund of the integrated tax paid on such exports. Further, the above proviso to Sec. 54(3) is applicable only with respect to goods exported out of India and not with respect to DTA supplies. Therefore the refund of unutilized ITC, on account of inverted duty structure shall be allowed with respect to supplies made within the territory of India i.e DTA supplies.
- v. Further, they submitted that the said proviso is applicable only with respect to goods exported out of India and not with respect to DTA supplied. Therefore, the refund of unutilized ITC, on account of inverted duty structure shall be allowed with respect to supplies made within territory of India i.e DTA supplies. Rule 89 of the CGST rules, defines the calculation for maximum refund amount. The Rule 89(5) of the CGST Rules, 2017 is produced as under :

"89. Application for refund of tax, interest, penalty, fees or any other amount

(1) Any person, except the persons covered under notification issued under section 55, claiming refund of any tax, interest, penalty, fees or any other amount paid by him, other than refund of integrated tax paid on goods exported out of India, may file an application electronically in FORM GST RFD-01 through the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

(2) (3) & (4)

(5) In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following



Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) X Net ITC / Adjusted Total Turnover} – tax payable on such inverted rated supply of goods and services”

Explanation :- For the purposes of this sub-rule, the expressions-

- (a) Net ITC shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and*
- (b) Adjusted Total Turnover and relevant period shall have the same meaning as assigned to them in sub-rule (4).”*

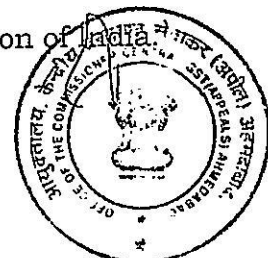
- vi. The appellant submits that while calculating the turnover the inverted rated supply of goods or services, the appellant have not considered the turnover or export of goods. Therefore, the appellant have not claimed the refund of supplies relating to export of goods while calculating the refund of inverted rated supply of goods. Hence, they have fully complied with the provision of Section 54(3) read with Rule 89(5) of the CGST Rules, 2017 and are eligible to claim the refund.

Section 54(3) is a beneficial provision and enables refund of unutilised ITC accumulated on account of inverted duty structure.

The said enabling provision of refund u/s 54(3) of CGST Act, 2017 is subject to certain conditions, safeguards and procedures as may be prescribed. The same are envisaged u/s 54 of CGST Act, 2017 purportedly are provided for under Rule 89 of the CGST Rules, 2017. The appellant therefore submits that Rule 89 entitled the supplier from claiming refund of unutilized ITC accumulated on account of inverted duty structure u/s 54(3) of the CGST Act, 2017. As per the said rule the maximum refund amount can be claimed bases on turnover of inverted rated supply of goods and services. They duly followed the rule based on the provision and calculated the refund amount only after reducing the turnover relating to export of goods and services and the same can be verified from the GSTR-1 and GSTR-3B for the month of May 2022. For this the appellant rely on in the case of

(i) Unichem Laboratories V. Collector -2002 (145) ELT 502 (SC)

Without prejudice, if the restriction imposed under the proviso to Section 54(3) of he CGST Act, 2017 applied to each supply of goods and services which includes supplies within the territory of India then the said restriction metes out unequal treatment to equals and is therefore violative of Article 14 read with Article 19(1)(g) of the Constitution of India

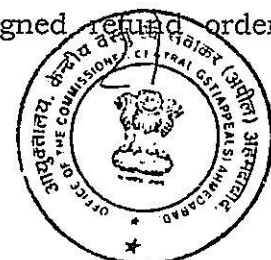


- vii. Further, they contended that Article 14 of the Constitution of India prohibits class legislation but permits reasonable classification. For such classification to pass the test of reasonableness, two conditions are required to be satisfied, viz., (i) that the classification must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from those left out of the group and (ii) that the differentia must have a rational relation to the object sought to be achieved.

It is further contended that Section 54(3) denies the benefit of refund of unutilized ITC accumulated on account of inverted duty structure to those supplies of goods and services for which the refund of integrated tax IGST has already been claimed under Section 16 of the IGST Act, 2017. Irrespective of the fact that the ITC is accumulated on account of inverted duty structure. The restriction for the refund of unutilized ITC accumulated on account of inverted duty structure on DTA supplies of goods and services is directly violative of Article 19(1)(g) of the Constitution.

Procedural lapses cannot deprive the assessee of substantive benefit of refund.

- viii. Without prejudice to the above submissions, the appellant submit that not defining the word such supplies as per Section 54 of the CGST Act, 2017 for claiming refund by the appellant ought not to disentitle them from the refund due, which is substantive right. It is trite law that procedural lapses cannot deprive the assessee of substantive benefit of law otherwise available to them. For this, they rely on the decision of the Hon'ble Apex Court in the case of
- (i) Mangalore Chemicals & Fertilizers Ltd Vs. Deputy Commissioner reported in 1991 (55) ELT 437 (SC) and
 - (ii) (ii) Novopan India Ltd. Vs Collector of C.Ex and Customs, Hyderabad reported in 1994 (73) ELT 769 (SC) has reiterated its finding in Mangalore Chemicals & Fertilizers Ltd (supra).
- ix. They further reliance on Circular No. 37/11/2018-GST dated 15.03.2018. As per Para 15 of the said circular it clarified that refunds may not be withheld due to minor procedural lapses or non-substantive errors or omission.
- x. Further, they submitted that procedural irregularities, if any, are condonable, and thus, the present refund claim may be allowed, as there is no dispute regarding the eligibility of refund of unutilised ITC accumulated on account of inverted duty structure. The impugned refund order is baseless and liable to be set aside.



PERSONAL HEARING:

6. Personal hearing in the matter in present appeal held on 16.12.2022, Mr. Sanket Gupta, Advocate & Authorized Representative, appeared on behalf of the appellant in this appeal for cross examination. During P.H. they have nothing more to add to their written submission till date.

DISCUSSION AND FINDINGS:

7. I have gone through the facts of the case, written submissions made by the 'appellant'. I find that the main issue to be decided in the instant case is

(i) whether the impugned refund order passed by the Adjudicating Authority is legal & proper and is in conformity with Section 54(3) of the CGST Act, 2017 read with Rule 89(5) of the CGST Rules, 2017 or not.

8. I have carefully gone through the facts of the case, grounds of appeal, submissions made by the "appellant" in their appeal memorandum in the instant case and documents available on record. The facts and grounds in all the appeals are same.

9. I find that the present appeals were filed to set aside the *impugned refund order* on the grounds that the *adjudicating authority* has rejected the refund amount to the appellant on the grounds that as per the proviso to Section 54(3) of the CGST Act, 2017 "*no refund of Input Tax Credit shall be allowed, if the supplier of goods or service or both avails of drawback in respect of Central Tax or claims refund of the Integrated Tax paid on such supplies.*"

I refer to the relevant portion of Section 54(3) of the CGST Act, 2017 which is reproduced as under:

"Section 54(3)

Subject to the provisions of sub-section (10), a registered person may claim refund of any un-utilized input tax credit at the end of any tax period:

Provided that no refund of un-utilized input tax credit shall be allowed in cases other than:

- (i) *Zero rated supplies made without payment of tax;*
- (ii) *Where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council*

Provided further that no refund of un-utilized input tax credit shall be allowed in cases where the goods exported out of India are subject to export duty,

Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of Central Tax or claims refund on Integrated tax paid on such supplies.."



9.1 I find that the adjudicating authority has rejected the refund claim on the basis of the second proviso to Section 54(3) of the CGST Act, 2017 i.e. *'no refund of input tax credit shall be allowed, if the supplier of goods or services or both claims refund on Integrated tax paid on such supplies.* The rejection has been made just on the basis of the plain reading of the above provision. What it has been mis-interpreted here is that the provision very clearly talks about "integrated tax paid on such supplies (emphasis added)". Here, 'such supplies' means that simultaneous benefit of refund of input due to inverted tax structure accumulated against some set of supplies, cannot be extended if they have claimed refund of IGST on such supplies. To be more specific, if any export on payment of IGST (i.e. zero rated supply) is made against some invoice and the taxpayer claims refund of such IGST, then the taxpayer cannot claim refund under inverted tax structure covering the same invoices/supplies. The clear interpretation is that simultaneous benefit cannot be extended to the taxpayer. This proviso restricts the taxpayer/exporter to claim refund of the same amount of tax under two different mechanisms of claiming refund and thereby receive undue benefit. Law allows the exporter to claim refund of integrated tax paid on goods exported out of India. This mechanism is basically refund of integrated tax on zero rated supplies and the taxpayer has the option to pay integrated tax on exported goods and claim refund of such integrated tax. Now, the refund of Input Tax Credit resulting from Inverted Duty Structure under the GST law is altogether different mechanism. The term 'inverted duty structure' refers to a situation where the rate of tax on inputs purchased is more than the rate of tax on output supplies, where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), it results in inverted duty. The intention of the law is to allow such inverted duty. To be more specific, both the mechanism of getting refund is altogether different and independent of each other. Thus, it shouldn't be interpreted that if a taxpayer claims refund on any single export on payment of IGST or any DTA supply on payment of IGST, he will not be eligible for refund of unutilized input tax credit where the credit has accumulated on account of rate of tax on inputs higher than the rate of tax on output supplies. Second proviso to Section 54(3) of the CGST Act, 2017 is only to ensure that double benefit should not be claimed by the taxpayer under two different mechanisms for the same supply.

In *Union of India Vs. Wood Papers Ltd.* [1990 (47) E.L.T. 500 (SC) = (1990) 4 SCC 256 = 1990 SCC (Tax) 422 = JT (1991) SC 151], it was held that, *'.....the need to resort to any interpretative process arises only where the meaning is not manifest on the plain words of the statute. If the words are plain and clear and directly convey the meaning, there is no need for any interpretation.'* This also reiterated in the case of *Commissioner of Customs (Import), Mumbai Vs M/s. Dilip Kumar & Company in Civil Appeal No. 3327 of 2007 by the Supreme Court of India.*

In *Union of India Vs. VKC FOOTSTEPS INDIA PVT. LTD.* [2021 (52) G.S.T.L. 513 (S.C.)], the Apex Court has held that *'Section 54(3), first proviso - Refund of unutilised ITC can be allowed only in eventualities envisaged in clauses (i) and (ii) - Term "Other than" operates as limitation or restriction - Clause (ii) is restriction and not mere condition of eligibility - Explanation 1 indicates that for domestic supplies, refund can be allowed only of unutilized credit accumulated on rate of tax on input goods being higher than rate of output supplies.* While enacting Clause (ii) of first proviso to Section 54(3) in CGST Act, Parliament took legislative



notice of a specific eventuality namely "where credit has accumulated on account of rate of tax on inputs being higher than rate of tax on output supplies" - Parliament would be cognizant of fact that ITC may accumulate for a variety of reasons, of which an inverted duty structure is one situation.'

Further, in the case of *Unichem Laboratories Ltd Vs. Collector [2002 (145) ELT 502 (SC)]* the Apex Court held that :

".....

13. There can be no doubt that the authorities functioning under the Act, must, as are in duty bound, protect the interest of the Revenue by levying and collecting the duty in accordance with law – no less and also no more. It is no part of their duty to deprive an assessee of the benefit available to him in law with a view to augment the quantum of duty for the benefit of Revenue. They must act reasonably and fairly."

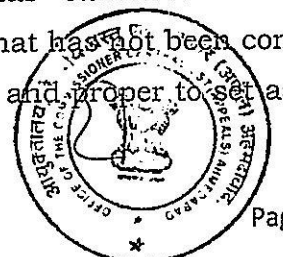
In view of the above discussion, I am of the opinion that the rejection reasons raised by the adjudicating authority are not sustainable in law and various contentions raised under para 3 of the appellant are sustainable in terms of the provisions of law.

10. Further, I find that the adjudicating authority has rejected the refund claim and passed the impugned order without giving any material findings or any valid reasons, without considering the appellants contentions in reply [RFD-09] dated 22.08.2022 to the Show Cause Notice [RFD-08]. For this, I rely upon in the case of *Assistant Commissioner, Commercial Tax Department Vs. Shukla & Brothers reported at 2010 (254) E.L.T. 6 (SC) = 2011 (22) STR 105 (SC)*, the H'ble Supreme Court held that :

"9. The doctrine of *audi alteram partem* has three basic essentials. Firstly, a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard. Secondly, the concerned authority should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order.....

13. The principle of natural justice has twin ingredients; firstly, the person who is likely to be adversely affected by the action of the authorities should be given notice to show cause thereof and granted an opportunity of hearing and secondly, the orders so passed by the authorities should give reason for arriving at any conclusion shown proper application of mind. Violation of either of them could in the given facts and circumstances of the case, vitiate the order itself."

11. I find that the sanctioning authority has given opportunity for the appellant to reply to the Show Cause Notice and also granted personal hearing on 22-8-2022. The adjudicating authority though seems to have apparently fulfilled the tenets of principles of natural justice; the fact that cannot be denied is that the impugned Order has not emerged as a culmination of a complete and robust judicial process. It is an established Law that an adverse Order seeking to reject the refund claim shall not be passed without considering the contra stand of the aggrieved. The appellant also has canvassed substantial submissions to reinforce their case against rejection of refund that has not been considered by the adjudicating authority. I therefore consider it to be legal and proper to set aside the impugned refund order.



12. In view of the above, I am of the view that speaking order should have been passed by giving material findings in the matter and the adjudicating authority should give reasons for arriving at conclusion by showing proper explanation. Without giving reasons adjudication order amounts to denial of justice to the appellant. Thus, I find that the impugned refund order being a non-speaking order, has been passed in gross violation of equity and natural justice.

13. It may be seen that the refund sanctioning authority/ adjudicating authority vide GST-RFD-08 had issued notices proposing rejection of refund claim being inadmissible for reasons that the appellant is not entitled to claim the refund of ITC accumulation due to inverted tax structure and simultaneously IGST refund on export of goods appeared not proper. The appellant in reply vide RFD-09 has stated that they are engaged in domestic supply within and outside the state of Gujarat on payment of applicable Integrated Goods and Service Tax (IGST) or CGST and SGST as the case may be. To examine this issue, I find that the contentions raised by the appellants are legally correct and acceptable. Hence, I find that the *adjudicating authority* has not passed legal and proper refund order (RFD-06) while rejecting the same and is not in accordance with Section 54 of CGST Act, 2017 read with Rule 89 of the CGST Rules, 2017.

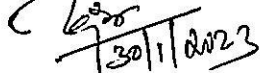
14. In view of the above, I find that the contentions raised under para 3 of the appellant are sustainable in terms of the provisions of law and judicial precedence in the matter as discussed above. Hence, I hold that the adjudicating authority has wrongly rejected the refund claim of the appellant in the impugned refund order, which is liable to be set aside.

15. In view of the above discussions and findings, I allow the appeal filed by the appellant and set aside the impugned refund order passed by the adjudicating authority to the above extent.

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


16. The appeal(s) filed by the appellant stand disposed of in above terms.

Attested

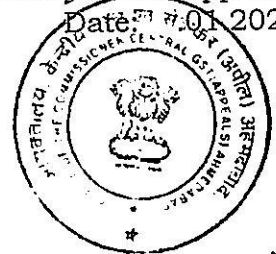


(Tejas J Mistry)
Superintendent,
Central Tax (Appeals), Ahmedabad
By R.P.A.D.

To
M/s. Supernova Engineers Limited,
F-2, 1st Floor, Sapath Hexa, Opp. Gujarat High Court,
S. G. Highway, Ahmedabad - 380 060


(Mihir Rayka)
Additional Commissioner (Appeals)

Date: 01/01/2023



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 Dy / Assistant Commissioner, CGST & C.Ex, Division-Kadi, 2nd Floor, Janta Super Market, Kalol (N.G), Gandhinagar Commissionerate.
- 5.The Additional Commissioner, Central Tax (System), Gandhinagar Commissionerate.
6. The Superintendent (Systems), CGST Appeals, Ahmedabad, for publication of the OIA on website.
- ✓ 7. Guard File.
8. P.A. File.



