



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

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टेलिफैक्स 07926305136



DIN- 20230964SW000000F4A3

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/2040/2023 -APPEAL /5634 - 5637

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-003-APP-JC-22/2023-24  
दिनांक Date : 30-08-2023 जारी करने की तारीख Date of Issue : 12-09-2023

श्री आदेश कुमार जैन संयुक्त आयुक्त (अपील) द्वारा पारित

Passed by Shri. Adesh Kumar Jain, Joint Commissioner (Appeals)

ग Arising out of Order-in-Original No. 01/PEV/SUPDT/CGST/2022-23 DT. 30.03.2023 issued by The Superintendent, CGST & C.Ex., Range-I, Divison-Kalol, Gandhinagar Commissionerate

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

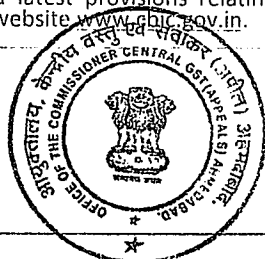
M/s. Suraj Udyog,

Survey No. 1069, Chatral, B/h Krishna Oil Mill,

Kalol, Gandhinagar, Gujarat - 382729

OLC

(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 twenty five per cent 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****BRIEF FACTS OF THE CASE:**

M/s Suraj Udyog, Survey No. 1069, Chatral, Behind Krishna Oil Mill, Kalol, Gandhinagar-382007 (hereinafter referred to as the "appellant") has filed the appeal on 28.06.2023 against Order-in-Original No. 01/PEV/SUPDT/CGST/2022-23 dated 30.03.2023 (hereinafter referred to as the "impugned order") passed by the Superintendent, Central GST & C.Ex., Range-1, Division- Kalol, Gandhinagar Commissionerate (hereinafter referred to as the "adjudicating authority") for non-payment of interest on non-reversal of input tax credit in the case of late-payment of dues to supplier after 180 days amounting to Rs. 7,75,247/- and non-payment of interest on reversal of wrongly availed and utilized input tax credit amounting to Rs. 9,96,882/-.

2. Brief facts of the case in the present appeal is that the appellant registered under GSTIN 24ACXFS1920Q2ZC, are engaged in manufacturing Zinc Oxide & Zinc Peroxide classifiable under Chapter sub-heading 28170010. During the audit of records of the appellant conducted for the period from July 2017 to March 2019 (FAR No. GST 592/2020-21) the audit party raised the following objections:

- (i) Non-payment of interest on non-reversal of input tax credit in the case of late-payment of dues to supplier after 180 days amounting to Rs. 7,75,247/- [(Rs. 7,69,537/ Integrated Tax ('IGST'), Rs 2,855/- (CGST) and Rs 2,855/- (SGST)], under the provisions of Sections 50(1) of the CGST Act, 2017 read with the provisions of Section 20 of the IGST Act, 2017.
- (ii) Non-payment of interest on reversal of wrongly availed and utilized input tax credit amounting to Rs. 10,29,234/- (Rs 5,14,617/- (CGST) + Rs 5,14,617/-; (SGST) under the provisions of Sections 50(1) of the CGST Act, 2017.



3. The appellant stated that they were not agreed with the above observations. The appellant was further issued show Cause Notice vide F.No.VI/1(b)-42/CIR-X/AP-69/2020-21 dated 31.03.2022. Further, the adjudicating authority passed the impugned order on 30.03.2023 and order for recovery of interest of Rs.7,75,247/- [(Rs. 7,69,537/ Integrated Tax ('IGST'), Rs 2,855/- (CGST) and Rs 2,855/- (SGST)], under the provisions of Sections 50(1) of the CGST Act, 2017 read with the provisions of Section 20 the IGST Act, 2017 of the Act in respect of Non-payment of interest on non-reversal of input tax credit in the case of late-payment of dues to supplier after 180 days and order for recovery of interest of Rs. 9,96,882/- (Rs 4,98,441/- (CGST) + Rs 4,98,441/- (SGST) under the provisions of

Sections 50(1) of the CGST Act, 2017 in respect of Non-payment of interest on reversal of wrongly availed and utilized input tax credit for the following reasons:

(i) **For Non-payment of interest on non-reversal of input tax credit in the case of late-payment of dues to supplier after 180 days:**

- that the supplier has contravened the provisions of 2nd proviso to Section 16(2) of the Act read with the provisions of Rules 37 of the Rules as they have wrongly availed the ITC without making payments of the value and tax to their suppliers within the prescribed time.
- the assessee had made payments to the suppliers beyond the prescribed period of 180 days, in terms of the 2nd proviso to Section 16(2) of the Act in as much as they have also not furnished the details of supplies in their GSR 2, as envisaged under the provisions of Rule 37(1) of the Rules. It, therefore, appeared that they have wrongly availed ITC in terms of the 2nd proviso to Section 16(2) of the Act read with the provisions of Rules 37 of the Rules. It appeared that the taxpayer is liable to pay total interest amounting to Rs 7,75,247/- (Rs 7,69,537/- (Integrated Tax (IGST)), Rs 2,855/- (CGST) and Rs 2,855/- (SGST), as detailed in table above, under the provisions of Sections 50(1) of the Act read with the provisions of Section 20 of the Act.

(ii) **Non-payment of interest on reversal of wrongly availed and utilized input tax credit:**

- they had wrongly availed the ITC in CGST and SGST head and utilized it for payment of tax towards the liability of CGST and SGST which actually was not available for the said payment.
- that there was an amount of Rs.1,27,89,780/- available as balance under IGST ITC ledger, Rs.3,34,709/- under CGST ITC ledger and Rs.3,34,709/- under SGST ITC ledger. The sum of all these balances in ITC ledger comes to Rs.1,34,59,198/- which matches with the balance credit amount mentioned by the taxpayer in his defence reply. However, considering each head i.e. IGST, CGST and SGST of input tax credit ledger as separate, interest is to be calculated on the basis of availability of balance in their input tax credit ledger under the respective heads.
- They have violated the explanation to Rule 88B of the CGST Rules, 2017.

4. Being aggrieved with the impugned order, the appellant preferred the present appeal on 28.06.2023 for the following reasons:



**(i) For Non-payment of interest on non-reversal of input tax credit in the case of late-payment of dues to supplier after 180 days:**

- as per the Rule 37(1) said ITC to be reflected in the GSTR 2 need to be reversed but as on date, there is no mechanism to file GSTR 2, then how can amount of ITC is not allowed? Further Rule 37(2) states that same amount needs to be added in GSTR 2, which in fact yet not introduced by the department, so this Show Cause Notice (SCN) is not valid as per the Scheme of the Act and Rules, in the absence of GSTR 2, second proviso of Section 16(2) cannot be applied.
  - that this 2nd proviso is for the controlling of the fake invoice cases not for the general business person as discuss by the 5th GST Council Meeting at the time of finalization of the Act, being a buyer, department is not having any allegation against us for the not received of goods/Service, so this proviso is not applied in our case.
  - that this section use word "fails to pay" whereas in our case, we did not pay the consideration to the buyer on account of business relationship/mutual understanding/operating cycle of our business.
  - contract agreement with M/s SURAJ UDYOG which clearly states that payment of supply made to us to be made after 180 days or earlier buyer choice i.e. RP, so we have not failed to pay our supplier. ITC s Vested Right of the Registered Person.
- we have ITC in credit ledger till date. So we are not liable to pay interest according to that.
- in the Judgement by Hon'ble Patna High Court it was held, in the case of M/S Commercial Steel Engineering Corporation Vs State of Bihar, that interest is not leviable on ITC which is availed however not utilized for payment of tax.
  - Reliance is placed on the decision of Hon'ble Delhi high court in the case of AB. Pal Electricals Pvt. Ltd. vs Union of India & OR's W.P.(C) 6537/2019 allowed the TRAN-1 of RP with decision in the Para 8 as below.

"8. We may further add that the credit standing in favour of an assessee is "property" and the assessee could not be deprived of the said property save by authority of law in terms of Article 300 (A) of the Constitution of India. There is no law brought to our notice which extinguishes the said right to property of the assessee in the credit standing in their favour."

**(ii) Non-payment of interest on reversal of wrongly availed and utilized input tax credit:**

- that No penalty or interest can be imposed, if RTP has availed the ITC but not utilised the same, in our case, we have availed the ITC but same is not utilised,

that our monthly balance in the Electronic Credit Ledger is monthly more than the alleged wrong availment of ITC.

- Reliance is placed on the Finance Act 2022 Dated 01 Feb, 2022 whereas Central Government has introduced new Section 50(3) w.e.f. 01 July, 2017 for the charging interest only when ITC is availed and utilised instead of ITC Availed or utilised in clause 110 of Finance Act.
- It is clear from the explanation of the Rule 88B that when taxpayer ITC ledger balance falls below the amount of credit wrongly utilised, same will be considered as utilisation of the ITC for the purpose of interest, it is further submitted that in our case, the balance of ITC ledger is not below anytime from the ITC wrongly availed, so it is a case where ITC Is not utilised by us, hence no interest to be levied.
- Reliance is placed on the decision of Hon'ble Patna High court in the case of M/s Commercial Steel Engineering Corporation Vs State of Bihar Civil Writ Jurisdiction Case No.2125 of 2019 on the issue of TRAN 1 credit wrongly availed but not utilised, Hon'ble court held that mere availment doesn't attract any penalty and interest. Hon'ble Madras High Court decision in case of M/S. AA THI HOTEL, VERSUS THE ASSISTANT COMMISSIONER (ST) (FAC), NAGAPATTINAM DISTR ICT. W.P.N6.3474 of 2021 and W.M.P.Nos.3980 & 3982 Of 2021 Dated.- December 8, 2021, whereas Hon'ble court held that interest to be levied in case of interest availed and utilised case only, not for interest levied or utilised, the relevant extract of the order is reproduced.

To permit to make necessary corrections to the GSTR-3B for the months of July 2017 to March 2018 through online or offline.



**PERSONAL HEARING :**

5. Personal hearing in the present appeal was held on 25.08.2023 and 29.08.2023. Mr. Pritesh Gandhi, Advocate, Authorized Representative appeared in person on behalf of the appellant in the present appeal. During P.H. he has submitted additional submission and relied upon Hon'ble Karnataka H.C. W.P. No. 2911 of 2022 in case M/s. Orient Traders (Para 2.1), where in it was held that error be permitted to be corrected and if portal doesn't allow, may be allowed to be corrected manually. In view of above, the interest demand may be dropped as they have sufficient balance of IGST which was corrected by them in the next months return itself. He further re-iterated the appeal memorandum and additional submission.

**DISCUSSION AND FINDINGS:**

6(i). I have gone through the facts of the case, written submissions made by the 'appellant'. I find that the main issues to be decided in the instant case are whether the interest is applicable on non-reversal of input tax credit in the case of late-payment of dues to supplier after 180 days and interest is applicable on reversal of wrongly availed and utilized input tax credit or not.

6(ii). I find that the during the audit of records of the appellant conducted for the period from July 2017 to March 2019 the audit party raised objection that the appellant has not paid interest on non-reversal of input tax credit in the case of late-payment of dues to supplier after 180 days amounting to Rs. 7,75,247/- [(Rs. 7,69,537/ Integrated Tax ('IGST'), Rs 2,855/- (CGST) and Rs 2,855/- (SGST)], under the provisions of Sections 50(1) of the Act read with the provisions of Section 20 of the Act and not paid interest on reversal of wrongly availed and utilized input tax credit amounting to Rs. 10,29,234/- (Rs 5,14,617/- (CGST) + Rs 5,14,617/- (SGST) under the provisions of Section 50(1) of the CGST Act, 2017.

6(iii). I find that the appellant were not agreed with the above observations and accordingly show Cause Notice was issued on 31.03.2022. Further, the adjudicating authority passed the impugned order on 30.03.2023 and confirmed the demand for recovery of interest of Rs.7,75,247/- [(Rs. 7,69,537/ Integrated Tax ('IGST'), Rs 2,855/- (CGST) and Rs 2,855/- (SGST)], under the provisions of Sections 50(1) of the CGST Act, 2017 read with the provisions of Section 20 the IGST Act, 2017 of the Act in respect of Non-payment of interest on non-reversal of input tax credit in the case of late-payment of dues to supplier after 180 days and also confirmed the demand for recovery of interest of Rs. 9,96,882/- (Rs 4,98,441/- (CGST) + Rs 4,98,441/- (SGST), under the provisions of Sections 50(1) of the CGST Act, 2017 in respect of non-payment of interest on reversal of wrongly availed and utilized input tax credit.

7(i). In the case of first issue, I find that in the appellant has availed input tax credit on inward supply of goods and services or both, but fails to pay to the supplier thereof, the value of such supply with the tax payable thereon within 180 days from the date of invoice. Accordingly, demand for recovery of interest of Rs.7,75,247/- [(Rs. 7,69,537/ Integrated Tax ('IGST'), Rs 2,855/- (CGST) and Rs 2,855/- (SGST)] has been raised. In this regard, I hereby refer the relevant provisions as under:

**2nd proviso to Section 16 (2) of the CGST Act, 2017:**

*The eligibility and condition for availment of input tax credit is governed by the provisions of Section 16 of the Act. Second proviso to sub section 2 of Section 16 of the Act provides that "where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse*

*charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon, in such manner as may be prescribed"*

The corresponding provisions of Rule 37 of the CGST Rules, 2017 and Gujarat SGST Rules, 2017 stood at the relevant time stipulates as under:

**Rule 37. Reversal of input tax credit in the case of non-payment of consideration.-**

(1) A registered person, who has availed of input tax credit on any inward supply of goods or services or both, but fails to pay to the supplier thereof, the value of such supply along with the tax payable thereon, within the time limit specified in the second proviso to sub-section(2) of section 16, shall furnish the details of such supply, the amount of value not paid and the amount of input tax credit availed of proportionate to such amount not paid to the supplier in FORM GSTR-2 for the month immediately following the period of one hundred and eighty days from the date of the issue of the invoice:

(2) The amount of input tax credit referred to in sub-rule (1) shall be added to the output tax liability of the registered person for the month in which the details are furnished.

(3) The registered person shall be liable to pay interest at the rate notified under sub section (1) of section 50 for the period starting from the date of availing credit on such supplies till the date when the amount added to the output tax liability, as mentioned in sub-rule (2), is paid.

7(ii). From the above provisions of law, I find that the appellant has availed the input tax credit ITC credit and has not paid the value of supply along with tax payable thereon to the supplier within the prescribed time limit of 180 days, is required to furnish details of such supply, the amount of value not paid and the amount of input tax credit availed of proportionate to such amount not paid to the supplier in the prescribed return for the month immediately following the period of 180 days from the date of invoice. **The appellant is also required to add the amount of such input tax credit to the output tax liability for the month in which the details are furnished, and has to pay interest from the date of availing credit on such supplies till the date when the amount added to the output tax liability.** However, I find that in the instant case the appellant had not made the payment to their suppliers within 180 days from the date of issue of invoice and also not furnished the details of supplies in their returns, as envisaged under the provisions of Rule 37(1) of the CGST Rules, 2017. Hence, I find that the appellant has violated the 2nd proviso to Section 16 (2) of the CGST Act, 2017 and Rule 37(1) of CGST Rules, 2017. Therefore the appellant is liable for interest under sub rule (3) of Rule 37 at the rate specified under section 50(1) of the CGST Act, 2017.

8(i). In the case of second issue of non-payment of interest on reversal of wrongly availed and utilized input tax credit, I find that the appellant has availed excess ITC of Rs. 1,06,48,247/- under CGST and Rs. 1,06,48,247/- under SGST



head and utilized the same for payment of CGST and SGST. Subsequently, the appellant reversed the said ITC through their GSTR-3B filed on 26.06.2018 for the month of March 2018. Since the appellant has availed and utilized the said input tax credit, they are liable to pay interest for the for the intervening period as they had wrongly availed the ITC in CGST and SGST head and utilized for payment of tax towards the liability of CGST and SGST which actually was not available for the said payment. In this regard, I hereby refer the relevant provisions as under:

**Explanation to Rule 88B:**

*Explanation - For the purposes of this sub-rule -*

(1) *input tax credit wrongly availed shall be construed to have been utilised, when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, and the extent of such utilization of input tax credit shall be the amount by which the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed.*

(2) *The date of utilization of such input tax credit shall be taken to be - (a) The date on which the return is due to be furnished under Section 39 of the actual date of filing of the said return, whichever is earlier, if the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, on account of payment of tax through the said return; or (b) The date of debit in the electronic credit ledger when the balance in the electronic credit ledger falls below the amount of input tax credit wrongly availed, in all other cases.*

**Section 50. Interest on delayed payment of tax.-**

(1) *Every person who is liable to pay tax in accordance with the provisions of this Act and the rules made thereunder, but fails to pay the tax or any part thereof to the Government within the period prescribed, shall for the period for which the tax or any part thereof remains unpaid, pay, on his own, interest at such rate, not exceeding eighteen per cent., as may be notified by the Government on the recommendations of the Council:*

*1] Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 ">section 73 or section 74">section 74 in respect of the said period, shall be levied on that portion of the tax that is paid by debiting the electronic cash ledger.]*

(2) *The interest under sub-section (1) shall be calculated, in such manner as may be prescribed, from the day succeeding the day on which such tax was due to be paid.*

(3) *Where the input tax credit has been wrongly availed and utilised, the registered person shall pay interest on such input tax credit wrongly availed and utilised, at such rate not exceeding twenty-four per cent. as may be notified by the Government, on the recommendations of the Council, and the interest shall be calculated, in such manner as may be prescribed]*

**8(ii)** In the instant case I find that appellant in their appeal memo has stated that they have availed the ITC but same is not utilized and their monthly balance in the Electronic Credit Ledger is monthly more than the alleged wrong availment of ITC which is wrongly interpreted by the appellant. However, I find that the appellant had wrongly availed ITC of Rs.1,11,71,548/- (CGST) & Rs.1,11,71,548/- (SGST) through their GSTR-3B return for the month February filed on 20.03.2018. Further they had also utilized the said ITC towards payment of their outward tax liability. I further find that the appellant had an amount of Rs.1,27,89,780/- available as balance under IGST ITC ledger, Rs.3,34,709/- under CGST ITC ledger and



Rs.3,34,709/- under SGST ITC ledger. The sum of all these balances in ITC ledger comes to Rs.1,34,59,198/- which matches with the balance credit amount mentioned by the appellant in his appeal memorandum. However, considering each head i.e. IGST, CGST and SGST of input tax credit ledger as separate, interest is to be calculated on the basis of availability of balance in their input tax credit ledger under the respective heads. I find that the appellant had ITC balance only of Rs. 3,34,709/- each, under CGST and SGST, but they have availed inadmissible ITC of Rs. 4,98,441/- in CGST and Rs. 4,98,441/- in SGST. Thus this is a case of not only wrong availment of Rs. 4,98,441/- in CGST and Rs. 4,98,441/- in SGST in the GSTR 3B return filed on 20.03.2018, but also utilized the same. The said wrongly availed credit though reversed in their GSTR-3B return for the month of March 2018 filed on 26.06.2028. Therefore this is a case of excess ITC availed and utilization of ITC and not of wrong or incorrect entries in the columns of GST returns or credit ledgers. Therefore the appellant is liable to pay interest in terms of explanation to Rule 88B and under the provisions of Sections 50(1) of the CGST Act 2017 read with the provisions of Section 20 of the CGST Act, 2017.

9. Further I find that the reliance placed by the appellant during personal hearing on the judgments are not applicable to the present case as the issue involved in these rulings are different. In case of Orient Traders Vs Dy. Commissioner of Commercial Taxes, Bengluru, The Hon'ble High Court of Karnataka held that

(i).....

(ii) *The respondents are hereby directed to permit the petitioner to make necessary corrections to the GSTR-3B for the months of July - 2017 to March -2018*

(iii).....

(iv) *Due to technical glitches/defects, if it is not possible for the respondents to permit such corrections online or on the portal, respondents are hereby directed to permit to carry out such correction via manually/physically.*

(v).....

(vi).....

The present case is not of any wrong entries in returns or corrections required which were not possible due to technical glitch. Further, in case of M/s. Sun Dye Chem Vs the Commissioner of State Tax, State of Tamil Nadu, Chennai W.P. No. 29676 of 2019, The Hon'ble High Court of Madras, the issue was that intra state sale was erroneously reported as inter-state sale as a result CGST and SGST credit was reflected in IGST column. Both the above case laws relied upon by the appellant are on totally different issues. Here in the instant case, the issue is not of

wrong entries or clerical errors, but a case of wrong availment and utilization of excess ITC amounting to Rs.1,11,71,548/- (CGST) & Rs.1,11,71,548/- (SGST).

**10(i)** In view of the above, I uphold the demand for recovery of interest of Rs.7,75,247/- [(Rs. 7,69,537/ Integrated Tax ('IGST'), Rs 2,855/- (CGST) and Rs 2,855/- (SGST)] in terms of 2nd proviso to Section 16 (2) of the CGST Act, 2017, Rule 37 of CGST Rules, 2017 and section 50(1) of the CGST Act, 2017 for non-payment of interest on non-reversal of input tax credit in the case of late-payment of dues to supplier after 180 days.

**10(ii)** I also uphold the demand for recovery of interest of Rs. 9,96,882/- (Rs 4,98,441/- (CGST) + Rs 4,98,441/- (SGST) in terms of explanation to Rule 88B and under the provisions of Sections 50(1) of the CGST Act 2017 read with the provisions of Section 20 of the CGST Act, 2017 for non-payment of interest on reversal of wrongly availed and utilised input tax credit, as discussed above.

**11.** In view of the above discussions, I do not find any merit in the contention of the appellant so as to intervene in the impugned order passed by the adjudicating authority. Accordingly, I uphold the impugned order passed by the adjudicating authority being legal and proper and reject the present appeal filed by the appellant.

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.

*(Adesh Kumar Jain)*  
20/08/2023

Joint Commissioner (Appeals)  
Date: 30.08.2023

Attested

*(Sandheer Kumar)*

(Sandheer Kumar)  
Superintendent (Appeals)

By R.P.A.D.

To

M/s Suraj Udyog,  
Survey No. 1069, Chatral,  
Behind Krishna Oil Mill,  
Kalol, Gandhinagar-382007.

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, Gandhinagar Commissionerate
4. The Dy./Asstt. Commissioner, CGST & C.Ex, Division-Kalol, Gandhinagar Commissionerate.

