



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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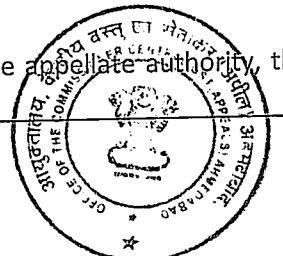
DIN NO. : 20230764SW0000611936

रजिस्टर्ड डाक ए.डी. द्वारा

- क फाइल संख्या : File No : GAPPL/ADC/GSTP/1488/2023 /3154 - 66
- ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-003-APP-JC-07/2023-24**
दिनांक Date : **17-07-2023** जारी करने की तारीख Date of Issue : 17-07-2023
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 **GEXCOM/TECH/MISC/228/2023** dated **24.02.2023** issued by the Superintendent, Central Goods and Service Tax, Range-V, Division Kadi, Gandhinagar Commissionerate
- घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant

M/s Hueck Decent Engraving India Pvt Ltd
Survey No. 891 and 893, Decent Compound,
Kalol-Mehsana Highway, Village Laxmipura,
Nandasan, Mehsana, Gujarat - 382705

(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 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:**

M/s. Hueck Decent Engraving India Pvt Ltd., Survey No. 891 and 893, Decent Compound, Kalol-Mehsana Highway, Village Laxmipura, Nandasan, Mehsana, Gujarat — 382705 (hereinafter referred to as the “appellant”) has filed the appeal on 17.04.2023 against Order-in-Original No. GEXCOM/TECH/MISC/228/2023 dated 24-02-2023 (hereinafter referred to as the “impugned order”) passed by the Superintendent, CGST & C. Ex., Range-V, Division - Kadi, Gandhinagar Commissionerate (hereinafter referred to as the “adjudicating authority”) for credit of service tax paid claimed in Transitional Credit (TRAN-1) amounting to Rs. 16,02,239/- after filing of ST-3 return on 25.08.2017 for the period April 2017 to June 2017.

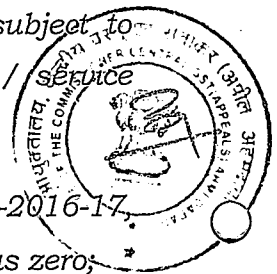
2. Brief facts of the case in the present appeal is that the appellant registered under GSTIN 24AADCH4867Q1ZY, have been engaged in supply of taxable goods as provided under the CGST Act, 2017. They were registered with erstwhile Service Tax Registration No. AADCH4867QSD001 as a manufacturer / Service Provider / Trader of taxable goods. They have claimed Input Tax Credit in TRAN-1 in Table 5(a) as Rs. 16,02,239/- vide their claim dated 14.11.2022. Further, during the verification of TRAN-1 claim filed on 14.11.2022, the following observations were made by the Adjudicating Authority and rejected the TRAN-1 claim of Rs. 16,02,239/- vide impugned order dated 24.02.2023:

(i) The tax payer has claimed Input Tax Credit of Rs. 16,02,239/- in table 5(a) of TRAN-1. The table 5(a) captures the detail of the CENVAT Credit carried forward in the return (ER-1/2/3 OR ST-3) relating to period ending with 30.06.2017, subject to conditions specified in section 140(1) of CGST Act, by the manufacturers / service providers;

(ii) the tax payer have ST-3 return filed for the period from April to September-2016-17, October to March-2016-17, where the opening and closing balance is shown as zero;

(iii) a personal hearing was fixed on 13.02.2023, wherein Shri Ravi V Patel, CA on behalf of the appellant attended the personal hearing. He submitted letter dated 13.02.2022 alongwith audited Annual Report for FT 2017-18 by M/s. Abhishek & Associates, Chartered Accountant and Balance Sheet as on 31st March 2017.

(iv) the closing balance of ST-3 return for the period April-June-2017 was zero as on 30.06.2017 and to claim Transitional Credit under table 5(a), it is necessary to have credit balance in previously filed ST-3 return. Further, the taxpayer submitted copy of audited Annual report for the F Y 2017-18 issued by M/s. Abhishek Kumar & Associates, Chartered Accountant and Balance Sheet as on 31st March, 2017, which is not a valid documents for claiming credit in TRAN-1. The taxpayer has not submitted any relevant documents relating to availment / utilization of Cenvat Credit. Therefore the claim of Service Tax credit of Rs.16,02,239/- is not admissible to them, as mandatory conditions in terms of Section 140(1) of the CGST Act and also as per



Circular No. 182/14/2022-GST is not fulfilled by the tax payer and therefore the claim of TRAN-1 of Rs. 16,02,239/- under table 5(a) is hereby rejected.

3. Being aggrieved with the impugned order, the appellant preferred the present appeal on 17.04.2023 on the following grounds:

- The appellant has filed TRAN-1 at the initial phase of introduction of GST. ARN of the same is AA240917104811B dated 23.09.2017 for Transitional Cenvat Credit / VAT credit. However, due to technical issue of the system, Service Tax credit was not reflected in TRAN-1. Hence, a letter was also submitted to the Division Officer for reopening of TRAN-1, but no response has been received from department.
- Further, the appellant filed TRAN-1 for service tax credit on reopening of window filing on account of court direction. ARN of the same is AC240922147843Y dated 14.11.2022.
- Considering the same department issued notice that no such service tax credit in reflecting in assessee's service tax return as the return filed for the month of April-June is nil or zero. **The reason behind the same is there was mistake in filing service tax return for the said month.**
- The appellant have a service tax credit of Rs. 16,02,239/-, it is not reflecting in our Service Tax Return of April-June, the reason behind the same is mentioned above but it is reflecting in our books of account.
- The appellant submitted /attaching audited financial statement for consideration.
- That the adjudicating authority has grossly erred in assessed TRAN-1 credit of Rs. 16,02,239/-

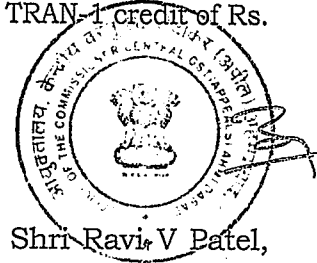
PERSONAL HEARING :

4. Personal hearing in the present appeal was held on 30.06.2023, Shri Ravi V Patel, appeared in person on behalf of the appellant in the present appeal as authorized representative. During the personal hearing he submitted that they have filed NIL return for quarter ending June 2017, but there was liability for the said period. Due to financial crisis they filed the return on 25.08.20217 and paid all dues with interest. Therefore, since the credit pertains to period prior to June 2017, the same is eligible as Transitional Credit, which may be allowed.

DISCUSSION AND FINDINGS:

5. I have gone through the facts of the case, written submissions made by the 'appellant'. I find that the moot issue to be decided in the instant case is whether the Transitional Credit of Rs. 16,02,239/- pertaining to service tax regime (as on 30.06.2017) should be admissible / allowed or not while submitting TRAN-1 under Section 140 of the CGST Act, 2017 read with Rule 117 of the CGST Rules, 2017 is legal and proper or not?

5.1 I have carefully gone through the facts of the case available on records and submissions made by the 'appellant' in the appeal Memorandum as well as submission made during personal hearing. I find that the adjudicating authority is not disputing the



entitlement or eligibility of credit pertaining to service tax amounting to Rs. 16,02,239/- which was available to the appellant as per their books of accounts and which was further claimed by the appellant under TRAN-1 immediately after rollout of GST. From the available records especially ST-3 return for April 2017 to June 2017 (FY 2017-18), submissions of the appellant as well as discussions and findings mentioned in the impugned order by the adjudicating authority, I do not find any dispute about the entitlement and eligibility of input tax credit of Rs. 16,02,239/- pertaining to service tax by the adjudicating authority. The only issue in the case is the input tax credit of Rs.16,02,239/- pertaining to service tax, which they have not declared in their last Service Tax Return ST-3 filed on 25.08.2017 for Apr-June 2017-18 which was further claimed under table 5(a) of FORM GST TRAN-1 filed by the appellant on 14.11.2022 immediately after the H'ble Supreme Court's directions and as per CBIC Circular No. 182/14/2022-GST dated 10th November 2022.

5.2 I find from the ST-3 return filed on 25.08.2017 for Apr-June 2017-18 that the appellant has filed NIL liability return and closing balance for CENVAT credit for the period April to June 2017 has shown zero, and the appellant has accepted that they have made mistake in filing service tax return for the said month.

In this regard, firstly, I refer to the Notification No. 18/2017-Service Tax dated 22nd June 2017, the operative portion is as under:

"....

1.

2. *In the Service Tax Rules, 1994,-*

(i) in rule 7, in sub-rule(2), after the second proviso, the following proviso shall be inserted, namely:-

"Provided also that the return for the period from the 1st day of April, 2017, to the 30th day of June, 2017, shall be submitted by the 15th day of August, 2017, in FORM 'ST-3' or 'ST-3C', as the case may be."

(ii) in rule 7B, in sub rule(1), the following proviso shall be inserted namely:-

"Provided that the revised return for the period from the 1st day of April, 2017, to the 30th day of June, 2017, shall be submitted within a period of forty five days from the date of submission of the return under rule 7."

From the above, it is clear that the department has given opportunity to all assessee to file their revised return within a period of forty five days from the date of submission of the return under rule 7. In spite of this, I find that the appellant has not filed their revised ST-3 return for the period April-June 2017-18 if they have made mistake in filing of such ST-3 return.

5.3 Further, vide para 2.2 of the CBIC's Circular No. 207/5/2017-Service Tax dated 28th September 2017, it has been clarified that "2.2 In case the return has already been filed by or after the due date, these details should be indicated in the revised return, the time for filing of which is 45 days from the date of filing of the return."

From the above, I find that the appellant has again missed the opportunity to file revised ST-3 return for the period Apr-June 2017-18.

5.4 Further, I find that the appellant has made application on 28.03.2019 to the jurisdictional officer for re-opening of window for TRAN-1, the same has been allowed by the department by issuing the Circular No. 182/14/2022-GST dated 10th November 2022 wherein guidelines for verifying the Transitional Credit in light of the Order of the Hon'ble Supreme Court have been issued. Vide this circular, ***the concerned officers are given 90 days thereafter to verify the veracity of the claim / transitional credit and pass appropriate orders thereon on merits after granting appropriate reasonable opportunity to the parties concerned.*** Accordingly, I find that the adjudicating authority has verified the veracity of the transitional credit as claimed by the appellant on 14.11.2022 and after granting the appropriate reasonable opportunity to the appellant being heard on 13.02.2023 have passed the impugned order by rejecting the transitional credit of Rs. 16,02,239/- after observing that the opening and closing balance towards CENVAT credit shown as zero in ST-3 return filed for the period from April to June 2017-18 in terms of conditions specified in section 140(1) of the CGST Act, 2017.

For this, I refer to the Section 140 of the CGST Act, 2017, which is re-produced as under:

Section 140 of CGST Act, 2017:

"140. (1) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit of eligible duties carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law within such time and in such manner as may be prescribed: Provided that the registered person shall not be allowed to take credit in the following circumstances, namely:—

- (i) *where the said amount of credit is not admissible as input tax credit under this Act; or*
- (ii) *where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or*
- (iii) *where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government.*

(2) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day within such time and in such manner as may be prescribed: Provided that the registered person shall not be allowed to take credit unless the said credit was admissible as CENVAT credit under the existing law and is also admissible as input tax credit under this Act.

Explanation.—For the purposes of this sub-section, the expression "unavailed CENVAT credit" means the amount that remains after subtracting the amount of CENVAT credit already availed in respect of capital goods

by the taxable person under the existing law from the aggregate amount of CENVAT credit to which the said person was entitled in respect of the said capital goods under the existing law.

(3) A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of notification No. 26/2012—Service Tax, dated the 20th June, 2012 or a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to the following conditions, namely:—

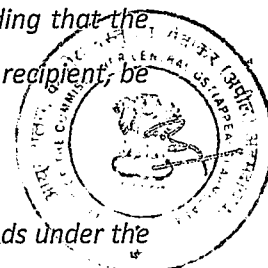
(i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;

(ii) the said registered person is eligible for input tax credit on such inputs under this Act;

(iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;

(iv) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and

(v) the supplier of services is not eligible for any abatement under this Act: Provided that where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of duty in respect of inputs, then, such registered person shall, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.



(4) A registered person, who was engaged in the manufacture of taxable as well as exempted goods under the Central Excise Act, 1944 or provision of taxable as well as exempted services under Chapter V of the Finance Act, 1994, but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger,—

(a) the amount of CENVAT credit carried forward in a return furnished under the existing law by him in accordance with the provisions of sub-section (1); and

(b) the amount of CENVAT credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to such exempted goods or services, in accordance with the provisions of sub-section (3).

(5) A registered person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the existing law, within such time and in such manner as may be prescribed, subject to the condition that the invoice or any other duty or tax paying document of the same was recorded in the books of account of such person within a period of thirty days from the appointed day: Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding thirty days: Provided further that said registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this sub-section.

(6) A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished⁶[goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to] the following conditions, namely:-

(i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;

(ii) the said registered person is not paying tax under section 10;

(iii) the said registered person is eligible for input tax credit on such inputs under this Act;

(iv) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of inputs; and

(v) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

(7) Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as⁷[credit under this Act, within such time and in such manner as may be prescribed, even if] the invoices relating to such services are received on or after the appointed day.

(8) Where a registered person having centralised registration under the existing law has obtained a registration under this Act, such person shall be allowed to take, in his electronic credit ledger, credit of the amount of CENVAT credit carried forward in a return, furnished under the existing law by him, in respect of the period ending with the day immediately preceding the appointed day⁸[within such time and in such manner] as may be prescribed:

Provided that if the registered person furnishes his return for the period ending with the day immediately preceding the appointed day within three months of the appointed day, such credit shall be allowed subject to the condition that the said return is either an original return or a revised return where the credit has been reduced from that claimed earlier:

Provided further that the registered person shall not be allowed to take credit unless the said amount admissible as input tax credit under this Act:

Provided also that such credit may be transferred to any of the registered persons having the same Permanent Account Number for which the centralised registration was obtained under the existing law.

(9) Where any CENVAT credit availed for the input services provided under the existing law has been reversed due to non-payment of the consideration within a period of three months, such⁹[credit can be reclaimed, within such time and in such manner as may be prescribed, subject to] the condition that the registered person has made the payment of the consideration for that supply of services within a period of three months from the appointed day.

(10) The amount of credit under sub-sections (3), (4) and (6) shall be calculated in such manner as may be prescribed....."

5.5 Further, I refer to the Rule 117 of the Central GST Rules, 2017, which is re-produced as under:

"Rule 117. Tax or duty credit carried forward under any existing law or on goods held in stock on the appointed day.-

(1) Every registered person entitled to take credit of input tax under section 140 shall, within ninety days of the appointed day, submit a declaration electronically in FORM GST TRAN-1, duly signed, on the common portal specifying therein, separately, the amount of input tax credit¹[of eligible duties and taxes, as defined in Explanation 2 to section 140, to which he is entitled under the provisions of the said section:

Provided that the Commissioner may, on the recommendations of the Council, extend the period of ninety days by a further period not exceeding ninety days.

Provided further that where the inputs have been received from an Export Oriented Unit or a unit located in Electronic Hardware Technology Park, the credit shall be allowed to the extent as provided in sub-rule (7) of rule 3 of the CENVAT Credit Rules, 2004.

²[(1A) Notwithstanding anything contained in sub-rule (1), the Commissioner may, on the recommendations of the Council, extend the date for submitting the declaration electronically in **FORM GST TRAN-1** by a further period not beyond ³[31st March, 2020]], in respect of registered persons who could not submit the said declaration by the due date on account of technical difficulties on the common portal and in respect of whom the Council has made a recommendation for such extension.]

(2) Every declaration under sub-rule (1) shall-

(a) in the case of a claim under sub-section (2) of section 140, specify separately the following particulars in respect of every item of capital goods as on the appointed day-

(i) the amount of tax or duty availed or utilized by way of input tax credit under each of the existing laws till the appointed day; and

(ii) the amount of tax or duty yet to be availed or utilized by way of input tax credit under each of the existing laws till the appointed day;

(b) in the case of a claim under sub-section (3) or clause (b) of sub-section (4) or subsection (6) or sub-section (8) of section 140, specify separately the details of stock held on the appointed day;

(c) in the case of a claim under sub-section (5) of section 140, furnish the following details, namely:-

(i) the name of the supplier, serial number and date of issue of the invoice by the supplier or any document on the basis of which credit of input tax was admissible under the existing law;

(ii) the description and value of the goods or services;

(iii) the quantity in case of goods and the unit or unit quantity code thereof;

(iv) the amount of eligible taxes and duties or, as the case may be, the value added tax [or entry tax] charged by the supplier in respect of the goods or services; and

(v) the date on which the receipt of goods or services is entered in the books of account of the recipient.

(3) The amount of credit specified in the application in **FORM GST TRAN-1** shall be credited to the electronic credit ledger of the applicant maintained in **FORM GST PMT-2** on the common portal.

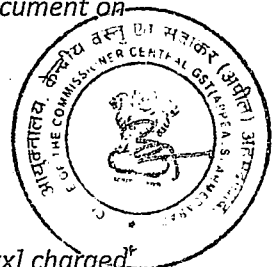
(4) (a) (i) A registered person who was not registered under the existing law shall, in accordance with the proviso to sub-section (3) of section 140, be allowed to avail of input tax credit on goods (on which the duty of central excise or, as the case may be, additional duties of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975, is leviable) held in stock on the appointed day in respect of which he is not in possession of any document evidencing payment of central excise duty.

(ii) The input tax credit referred to in sub-clause (i) shall be allowed at the rate of sixty per cent. on such goods which attract central tax at the rate of nine per cent. or more and forty per cent. for other goods of the central tax applicable on supply of such goods after the appointed date and shall be credited after the central tax payable on such supply has been paid:

Provided that where integrated tax is paid on such goods, the amount of credit shall be allowed at the rate of thirty per cent. and twenty per cent. respectively of the said tax;

(iii) The scheme shall be available for six tax periods from the appointed date.

(b) The credit of central tax shall be availed subject to satisfying the following conditions, namely:-



(i) such goods were not unconditionally exempt from the whole of the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985 or were not nil rated in the said Schedule;

(ii) the document for procurement of such goods is available with the registered person;

⁴[(iii) The registered person availing of this scheme and having furnished the details of stock held by him in accordance with the provisions of clause (b) of sub-rule (2), submits a statement in **FORM GST TRAN-2** by 31st March 2018, or within such period as extended by the Commissioner, on the recommendations of the Council, for each of the six tax periods during which the scheme is in operation indicating therein, the details of supplies of such goods effected during the tax period:]

⁵[Provided that the registered persons filing the declaration in **FORM GST TRAN-1** in accordance with sub-rule (1A), may submit the statement in **FORM GST TRAN-2** by ⁶[30th April, 2020]];

(iv) the amount of credit allowed shall be credited to the electronic credit ledger of the applicant maintained in **FORM GST PMT-2** on the common portal; and

(v) the stock of goods on which the credit is availed is so stored that it can be easily identified by the registered person.

5.6 In view of the Section 140(1) of the CGST Act 2017 read with Rule 117 of the CGST Rules, 2017, I find that the appellant shall be entitled to take, in his electronic credit ledger, the amount of **CENVAT credit of eligible duties carried forward in the return relating to the period ending with the day immediately preceding the appointed day.** Accordingly, I find that the appellant is failed to take CENVAT credit of eligible duties carried forward in the return relation to the period ending as on 30.6.2017 immediately preceding the appointed day i.e rollout of GST with effect from 1st July 2017, which is specified condition to claim CENVAT credit in TRAN-1. I observed that the appellate is found in dark, in spite of reasonable opportunities offered by the department to revise their ST-3 return for claiming CENVAT credit amounting to Rs. 16,02,239/-. Further, the appellant submitted copy of Audited Annual Report for the FY 2017-18 issued by M/s. Abhishek Kumar & Associates, Chartered Accountant and Balance Sheet as on 31st March 2017, which are not prescribed and valid documents for claiming CENVAT credit in **FORM TRAN-1** under the Section 140(1) of the CGST Act, 2017 read with Rule 117 of the CGST Rules 2017, while closing balance of CENVAT credit shown as zero in their statutory ST-3 return filed on 25.08.2017 for the tax period April 2017 to June 2017.

5.7 I also find in the present case that the appellant has failed to grab the reasonable opportunity offered by the CBIC time to time by not filing / revising their ST-3 return and I also do not find that the appellant has produced any valid documents to claim their Transitional Credit in pursuance to the aforesaid Board's Circulars issued under Rule 7 of the erstwhile Service Tax Rules, 1994 and guidelines issued under Circular dated 10th November 2022 based on the H'ble Supreme Court's decision in case of Union of India Vs. Filcc Trade Centre Pvt Ltd.

5.8 Further, I rely upon the decisions of the H'ble Supreme Court in the case of (i) Asst. Commr., Commercial Tax Department Vs. Shukla & Brothers reported at 2010 (254) ELT 6 (SC)= 2011 (22) STR 105 (SC) wherein it is observed that:

"9. In our view, it would neither be permission nor possible to state as a principle of law, that while exercising power of judicial review on administrative action and more particularly judgment of courts in appeal before the higher court, providing of

reasons can never be dispensed with. The doctrine of audi alteram partem has three basis 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 speaking order. This has never been uniformly applied by courts in India and abroad."

and (ii) Bidhannagar (Salt Lake) Welfare Association Vs. Central Valuation Board & ors - 2007 (6) SCC 668.

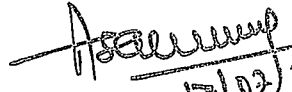
"42. Principles of natural justice are based on two basic pillars:

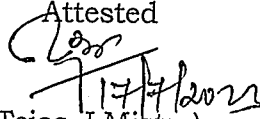
- (i) Nobody shall be condemned unheard (audi alteram partem).
(ii) Nobody shall be judge in his own case (nemo debet esse judex in propria sua causa.)
Duty to assign reason is, however, a judge-made law. It is considered to be a third pillar. (See Reliance Industries Ltd. v. Designated Authority [(2006) 10 SCC 368 : 2006 AIR SCW 4911].)

In the present case, I find that the appellant has been heard personally by the adjudicating authority and passed a reasonable speaking order. Thus, I find that the adjudicating authority has followed natural justice procedure in true spirit.

6 In view of the foregoing facts & discussion, I do not find any infirmity in the impugned order passed by the adjudicating authority and the *impugned order* passed by the *adjudicating authority* is legal and proper and as per the provisions of law to the above extent. Accordingly, I reject the present appeal of the "Appellant".

7. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है ।
7. The appeal filed by the appellant stands disposed of in above terms.


17/02/2023
(Adesh Kumar Jain)
Joint Commissioner (Appeals)
Date: .7.2023

Attested

(Tejas J Mistry)
Superintendent,
Central Tax (Appeals), Ahmedabad

By R.P.A.D.
To
M/s. Hueck Decent Engraving India Pvt Ltd.,
Survey No. 891 and 893, Decent Compound,
Kalol-Mehsana Highway, Village Laxmipura,
Nandasan, Mehshana, Gujarat — 382705



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 / Assistant Commissioner, CGST & C.Ex, Division- Kadi, Gandhinagar Commissionerate.
5. The Additional Commissioner, Central Tax (System), Gandhinagar Commissionerate.
6. The Superintendent, CGST, Range-V, Division – Kadi, Gandhinagar.
7. The Superintendent (Systems), CGST Appeals, Ahmedabad, for publication of the OIA on website.
8. ~~Guard File / P.A. File.~~





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