



सत्यमेव जयते

## आयुक्त का कार्यालय, (अपीलस)

Office of the Commissioner,

केंद्रीय जीएसटी, अहमदाबाद आयुक्तालय

Central GST, Appeal Commissionerate- Ahmedabad

जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.

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क फाइल संख्या : File No : V2(GST)85/North/Appeals/2019-20 / 22963 To 12987

ख अपील आदेश संख्या : Order-In-Appeal No.: AHM-EXCUS-002-APP-JC-12-19-20

दिनांक Date : 18/11/2019 जारी करने की तारीख Date of Issue: 19, 11, 2019

श्री उमाशंकर आयुक्त (अपील) द्वारा पारित

Passed by **Shri Mukesh Rathore**, Joint Commissioner (Appeals) Ahmedabad

ग आयुक्त, केन्द्रीय GST, अहमदाबाद North आयुक्तालय द्वारा जारी मूल आदेश : दिनांक : से सृजित

Arising out of Order-in-Original: 126, 127, 98/FINAL/2019, Date: 19/07/2019 Issued by: Deputy Commissioner, CGST, Div: IV, Ahmedabad North.

घ अपीलकर्ता एवं प्रतिवादी का नाम एवं पता

Name & Address of the **Appellant** & Respondent

**M/s. Intas Pharmaceuticals Ltd**

कोई व्यक्ति इस अपील आदेश से असंतोष अनुभव करता है तो वह इस आदेश के प्रति यथास्थिति नीचे बताए गए सक्षम अधिकारी को अपील या पुनरीक्षण आवेदन प्रस्तुत कर सकता है।

1. Any person aggrieved by this Order-In-Appeal issued under the Central Excise Act 1944, may file an appeal or revision application, as the one may be against such order, to the appropriate authority in the following way :

भारत सरकार का पुनरीक्षण आवेदन :  
**Revision application to Government of India :**

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1994 की धारा अंतर्गत नीचे बताए गए मामलों के बारे में पूर्वोक्त धारा को उप-धारा के प्रथम परन्तुक के अंतर्गत पुनरीक्षण आवेदन अवर सचिव, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, चौथी मंजिल, जीवन दीप भवन, संसद मार्ग, नई दिल्ली : 110001 को की जानी चाहिए।

(i) A revision application lies to the Under Secretary, to the Govt. of India, Revision Application Unit Ministry of Finance, Department of Revenue, 4<sup>th</sup> Floor, Jeevan Deep Building, Parliament Street, New Delhi - 110 001 under Section 35EE of the CEA 1944 in respect of the following case, governed by first proviso to sub-section (1) of Section-35 ibid :

(ii) यदि माल की हानि के मामले में जब ऐसी हानि कारखाने से किसी भण्डागार या अन्य कारखाने में या किसी भण्डागार से दूसरे भण्डागार में माल ले जाते हुए मार्ग में, या किसी भण्डागार या भण्डार में चाहे वह किसी कारखाने में या किसी भण्डागार में हो माल की प्रकिया के दौरान हुई हो।

(ii) In case of any loss of goods where the loss occur in transit from a factory to a warehouse or to another factory or from one warehouse to another during the course of processing of the goods in a warehouse or in storage whether in a factory or in a warehouse.

(ख) भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित माल पर या माल के विनिर्माण में उपयोग शुल्क कच्चे माल पर उत्पादन शुल्क के रिबेट के मामलों में जो भारत के बाहर किसी राष्ट्र या प्रदेश में निर्यातित है।

(b) In case of rebate of duty of excise on goods exported to any country or territory outside India of on excisable material used in the manufacture of the goods which are exported to any country or territory outside India.

(ग) यदि शुल्क का भुगतान किए बिना भारत के बाहर (नेपाल या भूटान को) निर्यात किया गया माल हो।

(c) In case of goods exported outside India export to Nepal or Bhutan, without payment of duty.



ध अंतिम उत्पादन की उत्पादन शुल्क के भुगतान के लिए जो ड्यूटी क्रेडिट मान्य की गई है और ऐसे आदेश जो इस धारा एवं नियम के मुताबिक आयुक्त, अपील के द्वारा पारित वो समय पर या बाद में वित्त अधिनियम (नं.2) 1998 धारा 109 द्वारा नियुक्त किए गए हो।

(d) Credit of any duty allowed to be utilized towards payment of excise duty on final products under the provisions of this Act or the Rules made there under and such order is passed by the Commissioner (Appeals) on or after, the date appointed under Sec.109 of the Finance (No.2) Act, 1998.

(1) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 के नियम 9 के अंतर्गत विनिर्दिष्ट प्रपत्र संख्या इए-8 में दो प्रतियों में, प्रेषित आदेश के प्रति आदेश प्रेषित दिनांक से तीन मास के भीतर मूल-आदेश एवं अपील आदेश की दो-दो प्रतियों के साथ उचित आवेदन किया जाना चाहिए। उसके साथ खाता इ. का मुख्यशीर्ष के अंतर्गत धारा 35-इ में निर्धारित फी के भुगतान के सबूत के साथ टीआर-6 चालान की प्रति भी होनी चाहिए।

The above application shall be made in duplicate in Form No. EA-8 as specified under Rule, 9 of Central Excise (Appeals) Rules, 2001 within 3 months from the date on which the order sought to be appealed against is communicated and shall be accompanied by two copies each of the OIO and Order-In-Appeal. It should also be accompanied by a copy of TR-6 Challan evidencing payment of prescribed fee as prescribed under Section 35-EE of CEA, 1944, under Major Head of Account.

(2) रिविजन आवेदन के साथ जहाँ संलग्न रकम एक लाख रुपये या उससे कम हो तो रुपये 200/- फीस भुगतान की जाए और जहाँ संलग्न रकम एक लाख से ज्यादा हो तो 1000/- की फीस भुगतान की जाए।

The revision application shall be accompanied by a fee of Rs.200/- where the amount involved is Rupees One Lac or less and Rs.1,000/- where the amount involved is more than Rupees One Lac.

सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण के प्रति अपील:-  
Appeal to Custom, Excise, & Service Tax Appellate Tribunal.

(1) केन्द्रीय उत्पादन शुल्क अधिनियम, 1944 की धारा 35- ष0बी/35-इ के अंतर्गत:-

Under Section 35B/ 35E of CEA, 1944 an appeal lies to :-

उक्तलिखित परिच्छेद 2 (1) क में बताए अनुसार के अलावा की अपील, अपीलो के मामले में सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (सिस्टेट) की पश्चिम क्षेत्रीय पीठिका, अहमदाबाद में दूसरा मंजिल, बहुमाली भवन, असारवा, अहमदाबाद, गुजरात 380016

To the west regional bench of Customs, Excise & Service Tax Appellate Tribunal (CESTAT) at 2<sup>nd</sup> floor, Bahumali Bhavan, Asarwa, Ahmedabad-380016 in case of appeals other than as mentioned in para-2(i) (a) above.

(2) केन्द्रीय उत्पादन शुल्क (अपील) नियमावली, 2001 की धारा 6 के अंतर्गत प्रपत्र इ.ए-3 में निर्धारित किए अनुसार अपीलीय न्यायाधिकरणों की गई अपील के विरुद्ध अपील किए गए आदेश की चार प्रतियाँ सहित जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना रूपए 5 लाख या उससे कम है वहां रूपए 1000/- फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना रूपए 5 लाख या 50 लाख तक हो तो रूपए 5000/- फीस भेजनी होगी। जहाँ उत्पाद शुल्क की मांग, ब्याज की मांग और लगाया गया जुर्माना रूपए 50 लाख या उससे ज्यादा है वहां रूपए 10000/- फीस भेजनी होगी। की फीस सहायक रजिस्टार के नाम से रेखांकित बैंक ड्राफ्ट के रूप में संबंध की जाये। यह ड्राफ्ट उस स्थान के किसी नामित सार्वजनिक क्षेत्र के बैंक की शाखा का हो

The appeal to the Appellate Tribunal shall be filed in quadruplicate in form EA-3 as prescribed under Rule 6 of Central Excise(Appeal) Rules, 2001 and shall be accompanied against (one which at least should be accompanied by a fee of Rs.1,000/-, Rs.5,000/- and Rs.10,000/- where amount of duty / penalty / demand / refund is upto 5 Lac, 5 Lac to 50 Lac and above 50 Lac respectively in the form of crossed bank draft in favour of Asstt. Registrar of a branch of any nominate public sector bank of the place where the bench of any nominate public sector bank of the place where the bench of the Tribunal is situated

(3) यदि इस आदेश में कई मूल आदेशों का समावेश होता है तो प्रत्येक मूल आदेश के लिए फीस का भुगतान उपर्युक्त ढंग से किया जाना चाहिए इस तथ्य के होते हुए भी कि लिखा पढी कार्य से बचने के लिए यथास्थिति अपीलीय न्यायाधिकरण को एक अपील या केन्द्रीय सरकार को एक आवेदन किया जाता है।

In case of the order covers a number of order-in-Original, fee for each O.I.O. should be paid in the aforesaid manner notwithstanding the fact that the one appeal to the Appellant Tribunal or the one application to the Central Govt. As the case may be, is filled to avoid scriptoria work if excising Rs. 1 lacs fee of Rs.100/- for each.

(4) न्यायालय शुल्क अधिनियम 1970 यथा संशोधित की अनुसूचि-1 के अंतर्गत निर्धारित किए अनुसार उक्त आवेदन या मूल आदेश यथास्थिति निर्णयन प्राधिकारी के आदेश में से प्रत्येक की एक प्रति पर रु.6.50 पैसे का न्यायालय शुल्क टिकट लगा होना चाहिए।



One copy of application or O.I.O. as the case may be, and the order of the adjournment authority shall bear a court fee stamp of Rs.6.50 paise as prescribed under scheduled-I item of the court fee Act, 1975 as amended.

(5) इन ओर संबंधित मामलों को नियंत्रण करने वाले नियमों की ओर भी ध्यान आकर्षित किया जाता है जो सीमा शुल्क, केन्द्रीय उत्पादन शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण (कार्याविधि) नियम, 1982 में निहित है।

Attention is invited to the rules covering these and other related matter contended in the Customs, Excise & Service Tax Appellate Tribunal (Procedure) Rules, 1982.

(6) सीमा शुल्क, केन्द्रीय उत्पाद शुल्क एवं सेवाकर अपीलीय प्राधिकरण (सीस्तेत) के प्रति अपीलों के मामलों में केन्द्रीय उत्पाद शुल्क अधिनियम, 1984 की धारा 35F के अंतर्गत वित्तीय(संख्या-2) अधिनियम 2014(2014 की संख्या 29) दिनांक: 06.08.2014 जो की वित्तीय अधिनियम, 1994 की धारा 83 के अंतर्गत सेवाकर को भी लागू की गई है, द्वारा निश्चित की गई पूर्व-राशि जमा करना अनिवार्य है, बशर्ते कि इस धारा के अंतर्गत जमा की जाने वाली अपेक्षित देय राशि दस करोड़ रूपए से अधिक न हो

केन्द्रीय उत्पाद शुल्क एवं सेवाकर के अंतर्गत "माँग किए गए शुल्क" में निम्न शामिल है

- (i) धारा 11 डी के अंतर्गत निर्धारित रकम
- (ii) सेनवैट जमा की ली गई गलत राशि
- (iii) सेनवैट जमा नियमावली के नियम 6 के अंतर्गत देय रकम

→ आगे बशर्ते यह कि इस धारा के प्रावधान वित्तीय (सं. 2) अधिनियम, 2014 के आरम्भ से पूर्व किसी अपीलीय प्राधिकारी के समक्ष विचाराधीन स्थगन अर्जी एवं अपील को लागू नहीं होंगे।

For an appeal to be filed before the CESTAT, it is mandatory to pre-deposit an amount specified under the Finance (No. 2) Act, 2014 (No. 25 of 2014) dated 06.08.2014, under section 35F of the Central Excise Act, 1944 which is also made applicable to Service Tax under section 83 of the Finance Act, 1994 provided the amount of pre-deposit payable would be subject to ceiling of Rs. Ten Crores,  
Under Central Excise and Service Tax, "Duty demanded" shall include:

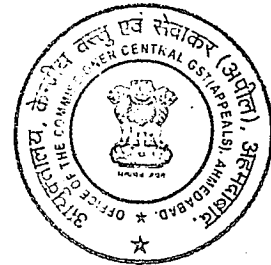
- (i) amount determined under Section 11 D;
- (ii) amount of erroneous Cenvat Credit taken;
- (iii) amount payable under Rule 6 of the Cenvat Credit Rules.

→ Provided further that the provisions of this Section shall not apply to the stay application and appeals pending before any appellate authority prior to the commencement of the Finance (No.2) Act, 2014.

(6)(i) इस आदेश के प्रति अपील प्राधिकरण के समक्ष जहाँ शुल्क अथवा शुल्क या दण्ड विवादित हो तो माँग किए गए शुल्क के 10% भुगतान पर और जहाँ केवल दण्ड विवादित हो तब दण्ड के 10% भुगतान पर की जा सकती है।

(6)(i) In view of above, an appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute."

II. Any person aggrieved by an Order-in-Appeal issued under the Central Goods and Services Tax Act, 2017/Integrated Goods and Services Tax Act, 2017/Goods and Services Tax (Compensation to States) Act, 2017, may file an appeal before the appropriate authority.



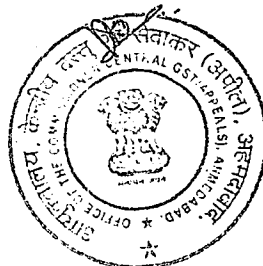
ORDER-IN-APPEAL

This order arises on account of an appeal filed by M/s Intas Pharmaceuticals Ltd., Plot No.5 to 14, Pharmez, Near Village Matoda, Sarkhej-Rajkot Highway No.8-A, Taluka Sanand, Ahmedabad-382210 (herein after referred as 'appellant') against the Refund Order No. 98/Final/2019 dated 19.07.2019 (herein after referred as 'impugned order') passed by the Deputy Commissioner, CGST & C.Ex, Division- IV, Ahmedabad North (herein after referred as 'adjudicating authority').

2. Brief facts of the case are that the appellant holding GST Registration number 24AAACI5120L3ZS had filed a refund application amounting to Rs. 1,67,42,086/- under form RFD-01A for the period Jan 2018 to March 2018 in respect of the refund of unutilized Input Tax Credit (ITC) on input services used in making zero rated supply of goods viz. export of goods without payment of Integrated Tax. The said claim was filed under the provisions of Section 54(3) of the CGST Act, 2017 read with Section 16 of the Integrated Goods and Service Tax Act, 2017 and Rule 89(4) of the Central Goods & Services Tax Rules, 2017. The adjudicating authority vide the impugned Order dated 19.07.2019 rejected an amount Rs. 3,38,042/- under sub-section (9) of the Section 54 of the CGST Act, 2017 read with sub-rule (3) of the Rule 92 of the CGST Rule, 2017 on the ground that vide the appellant letter dated 21.05.2019 has agreed to the difference in the value of zero rated supply in RFD-01A with the total value of the FOB value of the shipping bills, the appellant has stated that as per Circular No.37/11/2018-GST dated 15.03.2018, the lower of the two value should be considered for sanctioning of refund. Further, the appellant submitted a revised manual RFD-01A wherein the appellant reduced the value of the turnover of Zero rated supply, as per the FOB value of Shipping Bills, from Rs. 3,21,46,48,381/- to Rs. 3,14,97,40,875/- thereby reducing their eligible refund amount to Rs. 1,64,04,044/- from Rs. 1,67,42,086/-. The appellant vide their letter dated 21.05.2019 has requested to re-credit the said rejected amount Rs. 10,37,811/- to their electronic credit ledger and stated that they will not file an appeal against the same.

3. Appellants have claimed refund on samples and accordingly agreed with the adjudicating authority for rejection of proportionate refund of on samples exported i.e. Rs. 2,649/- for which Shipping Bill not available. Therefore, the Appeal is being filed by the appellant for Rs. 3,35,393/-. (Rs. 3,38,042 minus Rs. 2,649/-).

4. Being aggrieved with the rejection part of the above order, the appellant has filed the present appeal. The appeal has been filed mainly on the grounds that (i) the appellant had cleared goods for Export showing Transaction value in Tax Invoice which is CIF value of goods exported; (ii) the total value (Transaction Value) of zero rated supply in Tax Invoice shown by the appellant is to be matched with the total CIF value of the shipping bills and not with the FOB value of shipping Bills; and (iii) the refund of Rs. 3,35,393/- is admissible to them as the CIF value shown in Tax Invoice and CIF value shown in the Shipping Bill is



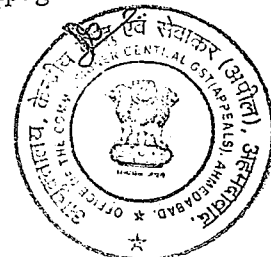
same and this Transaction Value is to be taken for the purpose of computing "Turnover of Zero Rated Supplies".

5. A personal hearing in the matter was held on 06.11.2019. Shri K.V. Subrahmanyam, Consultant, appeared before me on behalf of the appellant and submitted the written submission on 11.11.2019.


6. I have gone through the records of the case, the impugned orders, the grounds of appeals and written submission filed by the appellant and records of personal hearing.

7. As per the impugned Order, the amount of Rs.338042/- has been rejected on the ground that the appellant submission vide their letter dated 21.05.2019 had agreed to the difference in the value of zero rated supply in RFD-01A with the total value of the FOB value of the shipping bills, the appellant has stated that as per Circular No.37/11/2018-GST dated 15.03.2018, the lower of the two value should be considered for sanctioning of refund. Accordingly, the appellant submitted a revised manual RFD-01A wherein the appellant reduced the value of the turnover of Zero rated supply, as per the FOB value of Shipping Bills to Rs. 3,14,97,40,875/- thereby reducing their eligible refund amount to Rs. 1,64,04,044/- from Rs. 1,67,42,086/-. Further, the appellant vide their letter dated 21.05.2019 has requested to re-credit the said rejected amount to their electronic credit ledger and stated that they will not file an appeal against the same. Thus, it can be seen that the amount rejected vide the impugned order has been on the appellant's submission only and they themselves has re-quantified the their eligible refund claim to Rs.1,64,04,044/- from the initially claimed amount of Rs.1,67,42,086/- as per the revised manual RFD-01A filed by them. As per the adjudicating authority, the appellant has also undertaken not to prefer any appeal against the same. It is clear that the amount of refund rejected in the case is actually the amount of refund claim reduced by the appellant themselves vide the revised RFD-01A submitted by them and the said reduced amount has to be rejected by the adjudicating authority as then only the said amount can be re-credited to the appellant's electronic credit ledger as per their request. In fact, the refund claim of the appellant in the case has been sanctioned in full as per their revised claim of refund. In view thereof, I find that the refund claim sanctioned by the adjudicating authority in the present case is correct. Since the refund claim has been sanctioned in full, there is nothing to be aggrieved by the appellant against the impugned order. I am of the view that the amount rejected in the present case is on account of the system requirement for passing an order in Form GST-PMT03 without which it is not possible to re-credit the reduced claim amount to the appellant's electronic credit ledger as the appellant cannot take the re-credit of the said amount on their own. In view of the above facts, I find that the appeal preferred by the appellant in the present case is not maintainable and the same is liable for rejection without going into the merit of contentions raised therein.


8. Therefore, I do not find any reason to interfere in the impugned order and accordingly I uphold the same and reject the appeal filed by the appellant.

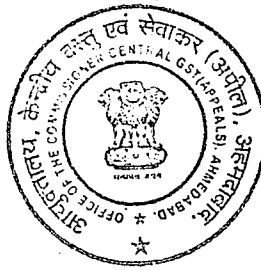


9. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।  
The appeals filed by the appellant stand disposed off in above terms.

  
(Mukesh Rathore)  
Joint Commissioner (Appeals)

Attested:

  
(Naresh Kumar)  
Superintendent (Appeals),  
CGST, Ahmedabad.



**BY SPEED POST TO:**

M/s Intas Pharmaceuticals Ltd.,  
Plot No.5 to 14, Pharmez,  
Near Village Matoda,  
Sarkhej-Rajkot Highway No.8-A,  
Taluka Sanand,  
Ahmedabad-382210.

Copy to:-

1. The Chief Commissioner, Central Tax , Ahmedabad Zone..
2. The Commissioner, CGST, Ahmedabad North.
3. The Deputy Commissioner, CGST Division-IV, Ahmedabad North.
4. The Asstt. Commissioner, CGST (System), HQ, Ahmedabad North.
5. Guard file.
6. P.A. File