



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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रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : V2(GST)52/EA-2/North/Appeals/19-20/15861 To 15867

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-EXCUS-002-APP-JC-031/20-21
दिनांक Date : 25-09-2020 जारी करने की तारीख Date of Issue : 12/10/2020

श्री मुकेश राठोर संयुक्त आयुक्त (अपील) द्वारा पारित

Passed by Shri. Mukesh Rathor, Joint.Commissioner (Appeals)

ग Arising out of Order-in-Original No 262/2019-20(Final) दिनांक: 26.08.2020 issued by
Deputy Commissioner, CGST & Central Excise, Division-I, Ahmedabad-North

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

M/s Asiatic Color Chem Industries,
1503-1504, Phase-I, GIDC Naroda,
Ahmedabad-382330

(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

The Assistant Commissioner, CGST & Central Excise, Division-I, Ahmedabad North, Ahmedabad (hereinafter referred to as the 'appellant') has filed the present appeals against RFD-06 Order-in-Original No. 262/2019-20(Final) dated 26.08.2020 (hereinafter referred to as 'impugned order') passed by the Deputy Commissioner, CGST, Division-I, CGST & Central Excise Ahmedabad North, (hereinafter referred to as 'the adjudicating authority') in the matter of refund claims filed by M/s. Asiatic Color Chem Insustries Ltd., 1503-1504, Phase-1, GIDC Naroda, Ahmedabad - 382330 (hereinafter referred to as 'respondent'):

2. The facts of the case, in brief, are that the respondent, had filed refund claim of Rs. 2,23,70,000/- (SGST: Rs. 2,23,70,000/-) for the period of January, 2019 to March, 2019 on account of "Refund of ITC on Export of Goods & Services without payment of Tax". The adjudicating authority has sanctioned the total refund claim of Rs. 2,23,70,000/- (SGST: Rs. 2,23,70,000/-)

3. On the refund claims being sent for post audit, it was observed by Assistant Commissioner (Audit) vide letter F. No. VI/1 (b)-15/Post-Audit/Div-1/17-18 dated 24.01.2020 that, while passing the above said OIO, Division office has made a mistake in FOB value at Sr. No. 72 of Table-B. The correct FOB value as per Shipping Bill is Rs. 6819279.5 in place of Rs. 68192798.50, which resulted in excess payment of refund as per formula prescribed under Rule 89(4) of CGST Rules, 2017 as shown below:

Sr. No.	Details	As per S/Bill Invoice value	FOB Value (After rectification of FOB value of S/B No. 3042174 dated 27.03.2019)
1	Revised Turnover of Zero rated supply of goods and services (Lowest of the value between invoice value & FOB value as per Circular No. 37/11/2018- GST dt. 15.03.2018)	252759685	250696797

Revised refund calculation:

Turnover of zero rated supply of goods(1)	Net Input tax Credit(2)	Adjusted total turnover (3)	Refund Amount (1*2/3)	Refund Sanctioned	Excess refunded amount
25069679	40802964.8	457722961	22347956	22370000	22044/-

In view of the above, the adjudicating authority has sanctioned excess refund of Rs. 22,044/- to the claimant. The said claimant is not eligible for refund of Rs. 22,044/- and same is required to be recovered alongwith interest.

Thereafter on the impugned orders, having been examined for its legality and propriety, the Commissioner, CGST & C.Ex., Ahmedabad North, vide Review Orders Nos. 50/2019-20 dated 06.03.2020 authorized the appellant to file an appeal against the above mentioned impugned order raising the following grounds:



- observed that the In the Table-B of OIO, at Sr. No. 72, Division has considered FOB value of Shipping Bill No. 3042174 as Rs. 68192798.50. whereas correct FOB is Rs. 6819279.50. This mistake has resulted in excess payment of refund of Rs. 22,044/-;
- that The Adjudicating Authority has erred in calculation of "Turnover of Zero rated supply of goods" by considering the FOB value at Sr. No. 72 of Table-B as Rs. 68192798.50 instead of taking it as Rs. 6819279.50. The actual 'Turnover of Zero rated supply of goods' (lowest of the value between invoice value & FOB value as per Circular No. 37/11/2018-GST dated 15.03.2018) after rectification of mistake in FOB value works out to Rs. 250696797/-. This resulted into excess payment of refund of Rs. 22,044/-.
- that the excess refund amounting to Rs. 22,044/- (SGST: Rs. 22,044/-) claimed unscr Section 54(3) of the CGST Act, 2017, as such the same is required to be recovered alongwith interest.

4. A personal hearing in the matter was held on 27.08.2020. Shri Alpesh Kabra (Tax consultant), appeared before me on behalf of the respondent and reiterated the grounds of appeal.

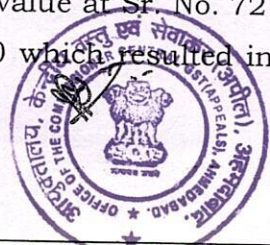
5. I have carefully gone through the facts of the appeals, the department's grounds of appeal in the Review Orders and submission made by respondent at the time of personal hearing. I find that the date of receipt of the impugned order as mentioned in the review orders is 20.09.2019 and the above appeal has been filed on 06.03.2020. As per Section 107 of the CGST Act 2017, the review of the order and the consequent filing of appeal by the subordinate has to be done within a period of six months from the date of communication of the order. I find that the above appeal have been filled within time limit.

6. In the present case, I find that the appellant has filed the appeals on the ground that, the Division office has made a mistake in FOB value at Sr. No. 72 of Table as Rs. 68192798.50 instead of taking it as Rs. 6819279.50 which resulted into excess payment of refund of Rs. 22,044/- as per formula prescribed under Rule 89(4) of CGST Rules, 2017.

7. Before going to decide the case, It shall be apt to reproduce the Rule 89(4) of CGST Rules, 2017 which reads thus :-

89(4): In the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of sub-section (3) of section 16 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), refund of input tax credit shall be granted as per the following formula- Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero rated supply of services) x Net ITC + Adjusted Total Turnover.

8. It is observed from the above that, the adjudicating authority has made a mistake in FOB value at Sr. No. 72 of Table as Rs. 68192798.50 instead of taking it as Rs. 6819279.50 which resulted into excess payment of refund of Rs. 22,044/- as



per formula prescribed under Rule 89(4) of CGST Rules, 2017. I also find that the respondent has not submitted any document & claiming that, the adjudicating authority has not made a mistake in FOB value at Sr. No. 72 of Table as Rs. 68192798.50 instead of taking it as Rs. 6819279.50, resulted into excess payment of refund. Therefore, I do not find any reason to interfere the Review Orders No. 50/2019-20 dated 06.03.2020 passed by Commissioner, CGST & C.Ex., Ahmedabad North.

9. In view of the foregoing, the departmental appeal is allowed. The prayer of the department for the recovery of the erroneously sanctioned refunds along with interest is also allowed.

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

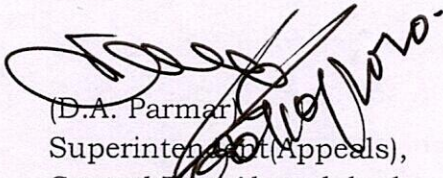
10. The appeals filed by the appellants stand disposed of in above terms.

मुकेश राठौर
25/09/2020
(मुकेश राठौर)

संयुक्त आयुक्त (अपील्स)

Date : 25.09.2020

Attested


(D.A. Parmar)
Superintendent (Appeals),
Central Tax, Ahmedabad



To,

M/s. Asiatic Color Chem Insustries Ltd.
1503-1504, Phase-1, GIDC Naroda,
Ahmedabad - 382330,.

Copy to:

1. The Chief Commissioner, Central GST, Ahmedabad Zone.
2. The Pr. Commissioner, Central GST, Ahmedabad North.
3. The Commissioner, CGST, Appeal, Ahmedabad.
4. The Assistant Commissioner, CGST & Central Excise, Division-I, Ahmedabad North.
5. The Deputy/Assistant Commissioner, State Tax, Ghatk Unit.
6. The Assistant Commissioner(RRA), Central GST, Ahmedabad North.
7. Guard file
8. P.A. file.