



सत्यमेव जयते

आयुक्त का कार्यालय, (अपीलस)  
Office of the Commissioner,  
केंद्रीय जीएसटी, अहमदाबाद आयुक्तालय

**Central GST, Appeal Commissionerate- Ahmedabad**

जीएसटी भवन, राजस्व मार्ग, अम्बावाडी अहमदाबाद ३८००१५.

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DIN20201264SW00004934F7

रजिस्टर्ड डाक ए.डी. द्वारा

- क फाइल संख्या : File No : V2(GST)53/EA-2/North/Appeals/19-20
- ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-002-APP-JC-39/20-21**  
दिनांक Date : **15.12.2020** जारी करने की तारीख Date of Issue : 31.12.2020  
**श्री मुकेश राठोर** संयुक्त आयुक्त (अपील) द्वारा पारित  
Passed by Shri. Mukesh Rathor, Joint.Commissioner (Appeals)
- ग Arising out of Order-in-Original No **RFD-06 264/2019-20(Final)** dated दिनांक: **26.08.2019** passed by Assistant/Deputy Commissioner, Central GST, Division-I, Ahmedabad-North
- घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent

**Appellant-** Assistant/Deputy Commissioner, Central GST, Division-I, Ahmedabad-North

**Respondent-** M/S Marketing/ Rutu Akash Patel, Bhagat Estate, 10, Near Galaxy Cinema, 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) <b>Full amount of Tax, Interest, Fine, Fee and Penalty</b> arising from the impugned order, as is admitted/accepted by the appellant, and (ii) A sum equal to <b>twenty five per cent</b> 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.



## ORDER IN APPEAL

The below mentioned departmental appeal has been filed by the Assistant Commissioner, CGST, Division-VI, Ahmedabad-South [herein after referred to as the 'adjudicating authority'] under sub-section(2) of Section 107 of the Central Goods and Services Tax Act, 2017, the details of which are as follows:

Name of the Respondent	OIO No. & date issued under Form GST RFD 06	Review Order No. passed by the Commissioner, Central GST & C.Ex. Ahmedabad North [in terms of Section 107 (2) of The CGST Act, 2017]	Appeal No.
M/s. MRP Marketing -Trade Name (Ritu Akash Patel- Legal Name) Bhagat Estate, 10, Near-Galaxy Cinema, Naroda, Ahmedabad-382330. GSTN:24BWBP4989F1Z7	264/2019-20(Final) dated 26.08.2019, F.No. GST /Ref-214/ Ritu/ 18-19.	52/2019-20 Dtd.11.03. 2020	V2(GST)53 /EA - 2/ Appeals/ 19-20.

2. The facts of the case in brief are that the respondent filed refund claim of Rs.2,45,863/- (IGST-Rs.40,119/- + CGST Rs.1,02,857/- +SGST Rs.1,02,857/-) in respect of the period from April, 2018 to March, 2019 seeking refund of ITC on export of goods & service without payment of Integrated Tax in terms of Section 54(6) of the Central Goods and Services Tax Act, 2017 read with Rule 91(2) of the Central Goods and Service Tax Rules, 2017. On scrutiny, the adjudicating authority found that eligible amount of refund comes to Rs.2,28,001/- to which he sanctioned under impugned order and rejected remaining amount of Rs.17,862/- (CGST Rs.8,931/- +SGST Rs.8,931/-) on account of mismatch in figures. Thereafter, the refund claim was sent for post-audit purpose wherein it was observed by the Assistant Commissioner(Audit) that while passing the OIO, Adjusted Total Turnover was considered Rs.29,23,761/- instead of Rs.31,19,449/- which is mentioned in RFD -01A and thereby excess refund to the tune of Rs.14,303/- has been sanctioned. Therefore, on examining the impugned order for its legality and propriety, the Commissioner, CGST & C.Ex., Ahmedabad-North Commissionerate vide his aforementioned Review Order, directed the adjudicating authority to file the aforementioned appeal raising the grounds as under:



- 1) While calculating maximum amount of refund, the adjusted total turnover was considered by the adjudicating authority Rs.29,23,761/- instead of Rs.31,19,449/- mentioned in RFD -01A RFD -01A .
- 2) "Adjusted Total Turnover" includes value of supply of goods and services including debit/credit notes mentioned n GSTR.
- 3) The claimant has not offered any explanation in variation of figures shown in different submissions with regard to "Adjusted Total Turnover"
- 4) The adjudicating authority has erred in taking 'Adjusted Total Turnover' by considering Rs.29,23,761/- instead of Rs.31,19,449/- and hence revised refund calculation works out to be :

Turnover of zero rated supply of goods	Adjusted Total Turnover	Net Input tax Credit	Eligible Refund [(1x3)/2]	Refund Sanctioned	Ineligible/excess Refund amount (4-5)
(1)	(2)	(3)	(4)	(5)	(6)
2163012	3319449	308191	213698	228001	<b>14303</b>

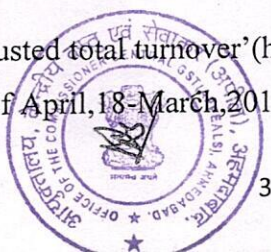
In view of the above, the adjudicating authority sanctioned excess refund to the tune of Rs.14,303/- which requires to be recovered along with interest.

3. In the Personal hearing held on 27.11.2020, Shri Rajendra kumar A Patel, authorized signatory appeared through video conferencing on behalf of the respondent and requested to set aside the impugned order.

4. I have gone through the facts of the case, the impugned original order, the grounds raised in the review order mentioned *supra* and oral averments made during the course of personal hearing. I find that the only question to be decided is whether the refund granted to the respondent vide the impugned OIO is erroneous or otherwise wherein refund amount has been calculated by the adjudicating authority considering 'adjusted total turnover' Rs.29,23,761/-.

5. I observe that 'Adjusted Total Turnover' Rs.31,19,449/- is mentioned by the claimant in RFD -01A. A said figure also stands recorded by the adjudicating authority under impugned order at para 2(B) as under:

“(B) The ‘Adjusted total turnover’ (herein after referred as ‘ATT’) as per GSTR-1 filed for the period of April, 18- March 2019 was shown as Rs.30,98,594.73, as per GSTR-3B



was Rs.29,23,761/-. In RFD-01A, the claimant had shown the value of "Adjusted total turnover" as Rs. Rs.31,19,449/-

The claimant did not offer any explanation in variation of figures shon in different submission ith regard to value of "ATT"

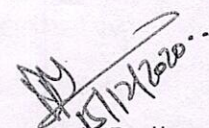
Hence, value of GSTR-3B viz. Rs.2923761/- is considered as value for the purpose of calculation of refund. "

6. I observe that in the case on hand, the applicant had filed refund application claiming value of Rs.31,19,449/- in the application Form RFD -01A as 'adjusted total turnover'. However, it was observed by the adjudicating authority that said adjusted total turnover amount is not in accordance with the returns filed by the claimant. Further, as observed in the impugned order, the claimant refrains from offering any comments on such mismatch in figures to the adjudicating authority. Therefore, there appear no basis in considering the figures of Rs.2923761/- instead of Rs.31,19,449/-which was claimed. The respondent neither claimed Rs.2923761/- before the adjudicating authority nor provided any submission supporting said amount, during appeal proceedings. Therefore, the observation of the adjudicating authority for arriving at maximum amount of refund considering 'adjusted total turnover' Rs.2923761/- in the formula is unwanted, faulty and hence not sustainable, more particularly when the claimant themselves has claimed Rs.31,19,449/- under application RFD-1A.

7. In view of the observations in foregoing para, I find merit in the departmental appeal and therefore, I set aside the impugned OIO to the extent it erroneously sanctioned refund in excess to the tune of Rs. Rs.14,303/- only. The prayer of the department for the recovery of the erroneously sanctioned refund along with interest is also allowed.

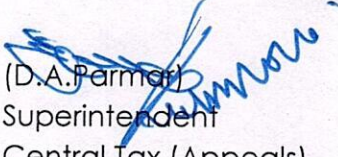
8. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

The appeal filed by the appellant stands disposed of in above terms.

  
(Mukesh Rathore)  
Joint Commissioner,  
CGST, Appeals.  
Date:



Attested

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

By R.P.A.D.

To,  
The Deputy/Assistant Commissioner, CGST,  
Division-I(Naroda),Ahmedabad-North.

M/s. MRP Marketing -Trade Name (Ritu Akash Patel-Legal Name)  
Bhagat Estate,10,Near-Galaxy Cinema,Naroda,Ahmedabad-382330.  
GSTN:24BWBP4989F1Z7

Copy to:

1. The Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner, SGST, Government of Gujarat, Rajya Kar Bhavan, Ashram Road, Ahmedabad.
3. The Commissioner, CGST,Appeals, Ahmedabad.
4. The Commissioner of Central Tax, Ahmedabad-North.
5. The Addl./Joint Commissioner, Central Tax (System),Ahmedabad- North.
6. P.A. File



