



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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DIN20201264SW0000813366

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : V2(GST)9/North/Appeals/20-21
 ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-002-APP-JC-41/20-21**
 दिनांक Date : **28.12.2020** जारी करने की तारीख Date of Issue : 12.01.2021

श्री मुकेश राठोर संयुक्त आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No **115/DNS/REF/Final/19-20** dated दिनांक: **29.01.2020**
 passed by Assistant/Deputy Commissioner, Central GST, Division-IV, Ahmedabad-North

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

Appellant- M/s Fermos Engineering Pvt. Ltd., 20, Changodar industrial Estate, Sarkkhej-Bavla Higway, Village-Changodar, Tal-Sanand, Dist.-Ahmedabad-382213

Respondent- Assistant/Deputy Commissioner, Central GST, Division-IV, Ahmedabad-North

(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.



and issue acknowledgement in FRD-02 and if deficiencies are noticed then, same to be communicated in FRD-03 electronically which is not followed;

- That non submission of physical documents within time period is just a procedure;
- That they relied upon a judgement in case of M/s Sambhaji and other vs Gangabai and other reported in (2008) 17SCC 117.

4. Personal hearing in the matter was held on 08.12.2020 through virtual mode. Shri Abhishek Chopra, CA appeared on behalf of the appellant for hearing and reiterated the submissions made in Appeal Memorandum.

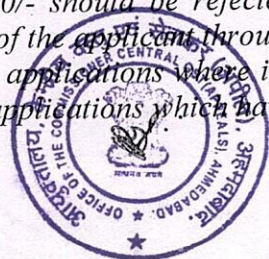
5. I have carefully gone through the facts of the case and submissions made by the appellant in the Appeal Memorandum. The limited issue which requires to be decide in the case is whether the appellant is required to submit physical documents in respect of refund claim filed or otherwise.

6. I observed that the for filling refund application under SEZ with payment of IGST, submission of invoice with endorsement of SEZ office is essential documents as required under second proviso to Rule 89 of CGST Rules, 2017 which were not submitted by the appellant alongwith claim and submitted very late.

7. I observed that the adjudicating authority in their order referred the para 6 of Circular No. 79/53/2018-GST dated 31.12.2018 issued by Commissioner (GST), CBEC and rejected the claim. I have gone through the said circular wherein clarification on refund related issues have been issued. Relevant para 6 of the said circular are reproducing herein below:

Refund applications that have been generated on the portal but not physically received in the jurisdictional tax offices:

6. There are a large number of applications for refund in FORM GST RFD-01A which have been generated on the common portal but have not yet been physically received in the jurisdictional tax offices. With the implementation of electronic submission of refund application, as detailed in para 2 above, this problem is expected to reduce. However, for the applications (except those relating to refund of excess balance in the electronic cash ledger) which have been generated on the common portal before the issuance of this Circular and which have not yet been physically received in the jurisdictional offices (list of all applications pertaining to a particular jurisdictional office which have been generated on the common portal, if not already available, may be obtained from DG-Systems), the following guidelines are laid down:
- a) All refund applications in which the amount claimed is less than the statutory limit of Rs.1,000/- should be rejected and the amount re-credited to the electronic credit ledger of the applicant through the issuance of FORM GST RFD-01B.
 - b) For all applications where in an amount greater than Rs.1000/- has been claimed, a list of applications which have not been received in the jurisdictional tax office within



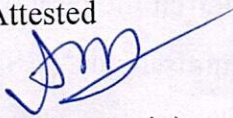
a period of 60 days starting from the date of generation of ARN may be compiled. A communication may be sent to all such claimants on their registered email ids, informing that the application needs to be physical submitted to the jurisdictional tax office within 15 days of the date of the email. The contact details and the address of the jurisdictional officer may also be provided in the said communication. The claimant may be further informed that if he/she fails to physically submit the application within 15 days of the date of the email, the application shall be summarily rejected and the debited amount, if any, shall be re-credited to the electronic credit ledger.

8. I find that, this clarification reflects the interpretation and intent of the Government and in the said circular, it has been clearly mentioned in the circular that if the claimant fails to physically submit the relevant documents to the jurisdictional tax office within time limit, the application shall be rejected. Thus, I observed that in the present case, the applicant had submitted relevant documents after expiry of stipulated time limit and have failed to submit the same to the adjudicating authority within time limit and hence, I find that the adjudicating authority correctly decided and rejected the refund claim.

9. In view of above discussion, I uphold the impugned order and reject the appeal filed by the appellant. The appeals filed by the appellant stands disposed of in above terms.

(Mukesh Rathore)
Commissioner (Appeals)
Ahmedabad
/ /2020

Attested


(Atul B Amin)
Superintendent (Appeals)
CGST, Ahmedabad



By R.P.A.D

To

M/s. Fermos Engineering Pvt. Ltd.,
20, Changodar Industrial Estate,
Sarkhej-Bavla Highway, Vill. Changodar,
Ta. Sanand, Dist Ahmedabad 382 213

Copy to:

1. The Principal Chief Commissioner, Central Excise, Ahmedabad Zone.
2. The Commissioner, CGST, Ahmedabad North.
3. The Deputy Commissioner, CGST & C.Ex, Division-IV, Ahmedabad North.
4. The Assistant Commissioner, System-CGST, Ahmedabad North.
5. Guard File.
6. P.A. File.