



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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DIN20210164SW0000444D44

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : V2(GST)15 to 16/North/Appeals/20-21/284

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-002-APP-JC-43 to 44/20-21**  
दिनांक Date : **20.01.2021** जारी करने की तारीख Date of Issue : **27.01.2021**

**श्री मुकेश राठोर** संयुक्त आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No **ZW2404200096004 & ZQ2404200095748 both**  
**dated** दिनांक: **07.04.2020** passed by Assistant/Deputy Commissioner, Central GST,  
Division-VII-S.G. Highway East, Ahmedabad-North

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

**Appellant-** M/s Rakesh Chemical (Chhatral), 52, Shayona Estate, Opp. Meldi Estate,  
Prasang Party Plot , Orad, Gota, Ahmedabad-382481.

**Respondent-** Assistant/Deputy Commissioner, Central GST, Division-VII-S.G. Highway East,  
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 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**

M/s. Rakesh Chemical (Chhatral) having their office at 52, Shayona Estate, Opp. Meldi Estate, Prasang Party Plot Orad, Gota, Ahmedabad-382481 (*hereinafter referred to as 'appellants'*) have filed both the present appeal against Order No. ZW2404200096004 & ZQ2404200095748 both dated 07.04.2020 passed in FORM-GST-RFD-06 (*hereinafter referred to as 'impugned orders'*) issued by the Assistant Commissioner, CGST, Div-VII - S G Highway East, Ahmedabad North (*hereinafter referred to as 'adjudicating authority'*).

2. Briefly stated that the appellant is holding GST Registration number 24AANFR2339E1ZA. The appellant filed two refund claims on 12-02-2020 for Rs. 2,88,990/- & Rs. 11,506/- before the adjudicating authority, under Section 54 of CGST Act, 2017, on account of Supplies to SEZ unit/SEZ Developer with payment of integrated tax for August-2017. The adjudicating authority vide impugned orders rejected the refund claims due to delay in Refund application.

3. Being aggrieved with the impugned orders, the appellant filed the present appeals wherein, inter alia, stated that:

- There is no time limit for claiming the refund of GST on supply made to SEZ unit as the same is equivalent to Export with payment of IGST;
- The adjudicating authority has rejected the refund application without giving a reasonable and proper opportunity of being heard and representing the case under the circumstances of COVID-19.

4. A personal hearing in the matter was held on 22.12.2020. Shri Pradip Jain, Advocate, appeared before me for personal hearing on dated 22.12.2020 through video conferencing mode on behalf of the appellant in appeal no. V2(GST)15&16/North/Appeals/20-21.

He has already submitted the written submission earlier & reiterated the same at the time of personal hearing. Further, he requested to set aside the order passed by the Adjudicating Authority.

5. I have carefully gone through the appeal memorandum, oral submission made at the time of personal hearing and evidences available on records. I find that only issue to be decided is whether the appellant is delay in Refund application or not. Accordingly, I proceed to decide the case on merits. Since, both the said appeals filed in a common issue, I am taking up the same in a common proceeding to decide both the appeals.

6. Prima facie, I find that the appellant had filed the refund claims under Section 54 of CGST Act, 2017 on account of Supplies to SEZ unit/SEZ Developer with payment of integrated tax. I find that the adjudicating authority has rejected both the refund claim due to non-filing refund application within prescribed time limit. Further, I find that the appellant has mentioned in grounds of appeal that there is no time limit for claiming the refund of GST on supply made to SEZ unit as the same is equivalent to Export with payment of IGST. In this regard, I find that the time limit to file refund application is clearly mentioned in Section 54(1) of CGST Act, 2017, which is reproduced below:

**“SECTION 54. Refund of tax. — (1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application **before the expiry of two years from the relevant date** in such form and manner as may be prescribed”**

From above, it is very crystal clear that the grounds raised by the appellant i.e. there is no time limit for claiming the refund of GST on supply made to SEZ unit as the same is equivalent to Export with payment of IGST, are not tenable. I find that the







appellant may make an application for refund of any tax and interest, if any, paid on such tax or any other amount paid by him **before the expiry of two years from the relevant date** in such form and manner as may be prescribed. In both the present case, it is observed from the records available on file that the refund application have not filed within time limit in terms of the provisions of Section 54(1) of CGST Act, 2017. I also find that there is no evidence submitted by the appellant to justify that he was not delayed in Refund application. As such, the plea of the appellant is not tenable.

7. In view of the above, I do not find any force in the contentions of the appellant. Accordingly, I find that the impugned orders passed by the adjudicating authority are correct as per the provisions of GST law.

8. Accordingly, I do not find any reason to interfere with the decision taken by the adjudicating authority vide "impugned orders".

9. In view of above discussion, I reject both the appeals filed by the appellant.

10. 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.

21/01/2021  
(मुकेश रठौर)

संयुक्त आयुक्त(अपील्स)

Date : 21-01-2021

Attested

(M.P.Sisodiya)  
Superintendent (Appeals)  
CGST, Ahmedabad.  
By R.P.A.D.

To,

M/s. Rakesh Chemical (Chhatral)  
(GSTIN: 24AANFR2339E1ZA)  
52, Shayona Estate, Opp. Meldi Estate,  
Prasang Party Plot Orad, Gota, Ahmedabad-382481

Copy to:

1. The Chief Commissioner, Central Tax, Ahmedabad Zone .
2. The Commissioner(Appeals), CGST, Ahmedabad
3. The Commissioner, Central Tax, Ahmedabad North.
4. The Assistant Commissioner CGST, Div-VII – S G Highway East, Ahmedabad North.
5. The Assistant Commissioner, System, Central Tax, Ahmedabad North.
6. Guard File.
7. P.A.



