



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.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad-380015

☎ : 079-26305065

टेलिफैक्स : 079 - 26305136

Email- commrappl1-cexamd@nic.in



DIN20210264SW0000014928

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : V2(GST)14/North/Appeals/20-21
ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-002-APP-JC-050/20-21**
दिनांक Date : **12.02.2021** जारी करने की तारीख Date of Issue : 18.02.2021

श्री मुकेश राठोर संयुक्त आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No **GST- RFD-06 NO. ZR2410200132233**, dated दिनांक: **12.10.2020** passed by Assistant/Deputy Commissioner, Central GST, Division-VII, Ahmedabad-North

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

Appellant- M/S Shail Enterprise (Alok Anil shah), 2nd floor, Sankrut, Blg, Old High Court Road, Navrangpura, Ahmedabad - 380009

Respondent- Assistant/Deputy Commissioner, Central GST, Division-II, 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.



ORDER IN APPEAL

M/s. Shail Enterprise (trade name), Alok Anil Shah (legal name), 2 nd Floor, Sankrut, Blg, Old High Court Road, Navarangpura, Ahmedbad-380009 GSTN:24ALKPS7196L1Z8 (hereinafter referred to as 'appellant') filed the present appeal against the Order-in-Original (GST-RFD-06 No.ZR2410200132233 dated 12.10.2020 (hereinafter referred to as 'impugned order') passed by the Deputy Commissioner, Central GST, Div-VII, Ahmedabad-North (hereinafter referred to as 'adjudicating authority').

2. The facts of the case, in brief, are that the appellant filed refund under Section 54 of the CGST Act, 2017 in respect of tax paid on supplies made to SEZ which was rejected by under the impugned order with the remark-'RFP 06 is being issued'.

3. Being aggrieved with the impugned order, the appellant preferred this appeal contesting *inter alia* that the refund was rejected due to technical glitch; that while processing the refund application, the amount '0' was not saved in column i.e. Amount of refund rejected.; that such to technical glitch in system resulted in rejection of refund.

4. Personal hearing in virtual mode was held on 12.01.2021 wherein Shri Meet Bhavsar, CA reiterated the grounds of appeal memorandum.

5. I have carefully gone through the facts of the case on records, grounds of appeal in the Appeal Memorandum, written submissions made by them as well as oral submissions made at the time of virtual personal hearing and the submissions dated 07.01.2021 filed by the respondent. I find that the issue to be decided in the matter is as to whether in the facts and circumstances of the case, the appellant's claims for refund is legally permissible or otherwise?

6. On scrutiny of refund application it was observed by the adjudicating authority that Annexure-B as prescribed under Circular No.135/05/2020-GST dated 31.03.2020 and Declaration in term of Rule 89(2)(f) were not filed/uploaded by the claimant and hence a show cause notice (GST-RFD-08) dated 14.09.2020 was issued to them in response to which the appellant under reply (GST-RFD-09) dated 28.09.2020 provided said documents. Thenafter, while processing the refund application and issuing the impugned order (GST-RFD-06), technical glitch in system



occurred. The amount '0' was not saved in column 'Amount of refund rejected' as a result of which the refund could not be sanctioned. The Deputy Commissioner CGST & C.Ex, Division-VII, Ahmedabad-North vide letter F.No. Div-VII/A'bad-North/Misc/Refund/19-20 dated 07.01.2021/12. 01. 2021 has now clarified the issue as under:

" This is to report that M/s. Shail Enterprise (Trade Name) and Shri Alok Anilbhai Shah(Legal Name) had filed Refund Application Reference Number AA240820034378B dated 14.08.2020 for 42,40,115/-. A Show cause Notice dated 14.09.2020 was issued to the claimant, as Annexure-B as per Circular No-135/05/2020-GST and Declaration as per Rule 89(2)(f) was not uploaded alongwith the claim.

In response to the SCN, the claimant uploaded all the required documents on 28.09.2020.

At the time of issuing a notice in Form GSTRFD-08 (SCN) to the applicant, the whole of refund was shown as inadmissible. At the time of sanctioning the claim, the same had been auto populated on the screen. As the claim was found to be in order, the whole of amount claimed as refund was admissible to the claimant and therefore, the then Deputy Commissioner, in the process of sanctioning the claim, made changes in the portal accordingly but as the internet connection was interrupted the changes were not accepted by the system and the whole of refund was sanctioned as inadmissible. It is a technical glitch, which could not be rectified by this office. And only option left was to file appeal by the claimant.

The amount of the claim is found to be admissible on merits."

7. It is observed from the above that the rejection of the claim happened on account of technical glitch only which is the core grounds of the present appeal. In this context, it is observed that various courts on numerous occasions decided that legitimate benefit like refund etc, available if any to tax payer, cannot be restricted or denied based on account of any such technical glitch which arise due to system/software error. Technical glitch of such nature cannot take away legitimate monetary benefit which aroused to the taxpayer. I therefore observe that the technical glitch arose in the present matter which ultimately resulted in non-sanctioning of refund to the claimant is faulty and unlawful and hence the impugned order is not maintainable to that extent.



8. In view of the discussions above, I find infirmity in the impugned order to the extent it not sanctioned refund based on technical glitch referred above, to which I reject and allow the appeal filed by the appellant to that extent only without going in to merit of the refund claim.

9. The appeal filed by the appellant stand disposed off in above terms.

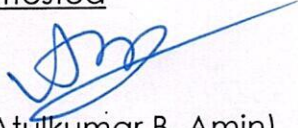
अपीलकर्ता द्वारा दर्ज की गयी अपील का निपटारा उपरोक्त तरीके से किया जाता है !

(Mukesh Rathore)

Joint Commissioner, CGST(Appeals)

Date:

Attested


(Atulkumar B. Amin)
Superintendent
Central Tax (Appeals)
Ahmedabad



By R.P.A.D.

To,
M/s. Shail Enterprise (trade name),
Alok Anil Shah (legal name),
2nd Floor, Sankrut, Building, Old High Court Road,
Navarangpura, Ahmedabad-380009
GSTN: 24ALKPS7196L1Z8

Copy to:

1. The Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner, CGST, Appeals, Ahmedabad.
3. The Commissioner of Central Tax, Ahmedabad-North.
4. The Addl./Joint Commissioner, Central Tax (System), Ahmedabad- North.
5. The Asstt./Deputy Commissioner, Central Tax, Division-VII, Ahmedabad- North.
6. Guard File
7. P.A. File

