



सत्यमेव जयते

आयुक्त(अपील) का कार्यालय,

Office of the Commissioner (Appeal),

केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद

Central GST, Appeal Commissionerate, Ahmedabad

जीएसटी भवन, राजस्वमार्ग, अम्बावाडी, अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015.

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DIN NO. : 20220364SW0000000FF8

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/696 & 697/2021-APPEAL / 7146-51

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-002-APP-ADC-111 & 112/2021-22**
दिनांक Date : **30-03-2022** जारी करने की तारीख Date of Issue : 30-03-2022

श्री मिहिर रायका अपर आयुक्त (अपील) द्वारा पारित

Passed by Shri. Mihir Rayka, Additional Commissioner (Appeals)

ग Arising out of Order-in-Original No **UIN-03/REFUND/2020-21 & UIN-04/REFUND/2020-21** dated **22.12.2020 & 24.12.2020** issued by Assistant Commissioner (Nodal Officer for sanction of UIN Refund), Central Goods and Services Tax, Division-I (Naroda), Ahmedabad North

घ अपीलकर्ता का नाम एवं पता Name & Address of the **Appellant / Respondent**
M/s. British Deputy High Commission(UIN 2417GBR00003UN7)
Courtyard by Marriot, Ramdevnagar Cross Road,
Satellite, Ahmedabad, Gujarat – 380015

| | |
|-------|---|
| (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**Brief Facts of the Case :**

The following appeals have been filed by **M/s. British Deputy High Commission**, Courtyard by Marriott, Ramdevnagar Cross Road, Satellite, Ahmedabad - 380015 (hereinafter referred as '*appellant*') against Refund Sanction/Rejection order in the form RFD-06 Orders (hereinafter referred as '*impugned orders*') passed by the Assistant Commissioner, CGST & C. Ex., (Nodal Officer for sanction of UIN Refund), Division - I - (Naroda), Ahmedabad North (hereinafter referred as '*adjudicating authority*').

| Sr. No. | Appeal No. & Date | RFD-06 Order No. & Date | Amount of Refund Rejected |
|---------|---|--|---------------------------|
| 1 | GAPPL/ADC/GSTP/697/2021-APPEAL Dated 07.04.2021 | UIN-03/REFUND/2020-21 Dated 22.12.2020 | Rs.51,432/- |
| 2 | GAPPL/ADC/GSTP/696/2021-APPEAL Dated 07.04.2021 | UIN-04/REFUND/2020-21 Dated 24.12.2020 | Rs.9,128/- |

2(i). The brief facts of the case are that the '*appellant*' is holding UIN No.2417GBR00003UN7 had filed refund claim application under Section 55 of the CGST Act, 2017 on account of goods received for the official purpose of the British Deputy High Commission Ahmedabad in terms of Notification No. 13/2017-Integrated Tax (Rate) and Notification No. 16/2017-Central Tax (Rate) read with Circular No. 36/10/2018-GST dated 13.03.2018, Circular No. 43/17/2018-GST dated 13.04.2018 and Circular No. 63/37/2018-GST dated 14.09.2018. The complete refund applications were received by department on 10.11.2020. The details of refund applications so filed by *appellant* is as under :

| Refund Application under form RFD-01 | | | Amount of Refund Rejected |
|--------------------------------------|---------------------------------|--|---------------------------|
| ARN No. | Period | Refund claimed (Integrated + Central + State Tax) | |
| AA241611705435E / 30.09.20 | January' 2018 to March' 2018 | Rs.51,432/- | Rs.51,432/- |
| AA241320001338X / 24.09.20 | April' 2020 to June' 2020 | Rs.98,305/- | Rs.9,128/- |

2(ii). The *adjudicating authority* after examining the refund application has observed that '*appellant*' is registered as Specialized Agency of UN (United Nations' Organization) under Section 25(9) of the



CGST Act, 2017 and holding UIN No. 2417GBR00003UN7, thus fulfilled the condition of Section 25(9) of the CGST Act, 2017.

2(iii). The *adjudicating authority* has referred the Section 54(2) of the CGST Act, 2017, the same is reproduced as under :

Section 54. Refund of tax.-

*(2) A specialized agency of the United Nations Organisation or any Multilateral Financial Institution and Organization notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, **before the expiry of six months from the last day of the quarter in which such supply was received.***

The *adjudicating authority* has further referred the para 5 of Notification No. 20/2018-Central Tax dated 28.03.2018. The same is reproduced as under :

*Now, therefore, in exercise of the powers conferred by section 148 of the said Act, the Central Government, on the recommendations of the Council, hereby notifies the specified persons as the class of persons who shall make an application for refund of tax paid by it on inward supplies of goods or services or both, to the jurisdictional tax authority, in such form and manner as specified, **before the expiry of eighteen months from the last date of the quarter in which such supply was received.***

2(iv). Considering the above legal provisions the *adjudicating authority* has held that as envisaged in Section 54(2) of the CGST Act, 2017 read with Notification No. 20/2018 dated 28.03.2018 the 'appellant' was **eligible to file refund claim for tax period January'18 to March'18 latest by end of September'2019.** However, the refund application with complete documents was **submitted on 10.11.2020.** Accordingly, the *adjudicating authority* has rejected the **refund claim of Rs.51,432/- considering it as time barred.**

2(v). Further, as regards to rejection of refund claim of Rs.9,128/- the *adjudicating authority* has observed that in the said refund application of Rs.98,305/- filed for period April'20 to June'20 there are four invoices of dated 18.12.18, 26.07.18, 09.07.18 & 16.08.18. Looking to the time limit for filing of refund claim in respect of such invoices, the

said invoices are found way beyond specified time period Viz. 18 months as per Notification No. 20/2018-Central Tax dated 28.03.2018. The aforesaid invoices pertain to Quarter July'18 to September'18 and October'18 to December'18. Accordingly, the *adjudicating authority* has held that according to Section 54(2) of the CGST Act, 2017 read with Notification No. 20/2018 dated 28.03.2018 the '*appellant*' was **eligible to file refund claim for tax period July'18 to Sept.'18 by end of March'20 and for Oct.'18 to Dec.'18 by end of June'20**. However, the refund application with complete documents was **submitted on 10.11.2020**. Accordingly, the *adjudicating authority* out of total refund claim of Rs.98,305/- has rejected **refund claim of Rs.9,128/-** considering it as time barred.

3. Being aggrieved with the impugned order the '*appellant*' has filed the present appeals on the basis of grounds of appeals as under :

- *UIN number was allotted to British Deputy High Commission in August 2017 as per MEA guideline.*
- *There was no clarity in allotment of Division. After getting further guideline from MEA, we approached Nodal Officer from Gandhinagar CGST and C. Ex. Office. They advised us to claim in Division -VII as our office is located in Satellite area.*
- *Division – VII Assistant Commissioner guided us further for manual claim and also processed our first claim in October 2018.*
- *Division – VII Assistant Commissioner further advised us that all UIN are being allocated to Division – I and we require to connect Commissioner Office in Panjarapole, Ahmedabad (CGST and C. Ex. Office).*
- *We approached GST Commissioner Office in November 2020. By the time we got clarity, our authorized signatory was changed. We were unable to process this online. We again requested for this also to Commissioner Office.*
- *We have been informed over phone by Commissioner office in February 2020 about allotment of Division and also about the change of authorized signatory. Sudden lockdown was announced in March 2020 due to pandemic. This pandemic delayed the process further as our office was busy in UK Repatriation Operation from April 2020 to July 2020.*
- *In summary, there were confusion in determining the correct jurisdiction to file the GST Refund for British Deputy High Commission in*



Ahmedabad. simultaneously the authorized signatory was also changed hands and we were not able to amend this through GST Online portal. Hence the claim could not filed in time.

The appellant through email dated 15.03.2022 reiterated the above grounds of appeal. In the e-mail the appellant has submitted that in October 2019 they have informed to the Assistant Commissioner, Division VII about change of authorized signatory and the AC has advised them to process online.

Personal Hearing :

4. Personal Hearing in the matter was through virtual mode held on 10.03.2022. Ms. Bela Kuchara, Authorized Representative appeared on behalf of the 'Appellant'. During P.H. she has reiterated the submissions made by them till date to defend the case and informed that they have nothing more to add to it.

Discussion and Findings :

5(i). I have carefully gone through the facts of the case available on records, submissions made by the 'Appellant' in both the Appeals Memorandum.

I find that the 'Appellant' is Specialized Agency of UN (United Nations' Organization) and holding the UIN No. 2417GBR00003UN7 in this regard. Further, I find that as per Section 55 (2) of the CGST Act, 2017 the appellant is entitled for refund of Tax paid on inward supplies of goods or services or both. For claiming such refund, in view of Section 54 (2) of the CGST Act, 2017 the 'appellant' has to make application before expiry of six months from the last day of quarter in which such supply was received. However, the Government vide Notification No. 20/2018-Central Tax dated 28.03.2018 extended the time limit for filing such refund claims. The relevant para is reproduced as under :

*Whereas, the facility for filing the claim of refunds under section 55 of the said Act has been **made available on the common portal recently;***

Now, therefore, in exercise of the powers conferred by section 148 of the said Act, the Central Government, on the recommendations of the Council, hereby notifies the specified persons as the class of persons who shall make an application for refund of tax paid by it on inward supplies of goods or services or both, to the jurisdictional tax authority, in such form

and manner as specified, before the expiry of eighteen months from the last date of the quarter in which such supply was received.

In view of above, the 'appellant' has to make application before expiry of eighteen months from the last date of quarter in which such supply was received. Accordingly, I find that the 'appellant' has filed the refund claim for the quarter January'18 to March'18 and April'20 to June'20. Both the claims were received by department with complete documents on 10.11.2020. However, in view of aforesaid legal provisions I find that the claim for Refund of Rs.51,432/- for Jan. to Mar.'18 quarter filed beyond the prescribed time limit.

5(ii). In view of above, I find that the refund claim for quarter Jan'18 to March'18 was time barred and second refund claim for quarter April'20 to June'20 was filed within time limit. However, in the said refund claim of April'20 to June'20 I find that four invoices were pertains to July'17, August'18 & December'18 involving refund claim of Rs.9,128/-. Accordingly, the *adjudicating authority* has held it as time barred. However, in the present appeal the 'appellant' has not produced any such acceptable reasons for delay occurred in filing of said refund claim. Accordingly, in view of foregoing I find that the *adjudicating authority* has rightly rejected the refund claim of Rs.9,128/- under *impugned order*.

5(iii). Further, as regards to rejection of refund claim of Rs.51,432/- of quarter Jan'18 to Mar.'18 I find that the said claim was to be filed by end of September'2019 however, the department has received the said claim with complete documents on 10.11.2020. Therefore, I find that the said claim was rejected by the *adjudicating authority* as barred by time. In this regard, I find that the 'appellant' is making arguments that they were not aware about the correct jurisdictional officer. The 'appellant' has further submitted that they have approached Commissioner Office in November'2020 and by the time got clarity their authorized signatory was changed and therefore they were unable to process refund online. Here, I find that by the time the prescribed period of filing refund claim for quarter Jan'18 to March'18 was already expired.

5(iv). In view of foregoing, I find that the refund claim was filed by 'appellant' beyond the specified time period. Further, in support of the reasons of delay in filing the refund claim, the 'appellant' failed to produce any such satisfactory reasons to convince this appellate authority. The 'appellant' failed to produce any such documents/evidence in support of any concerted efforts made by them to file refund claim for quarter



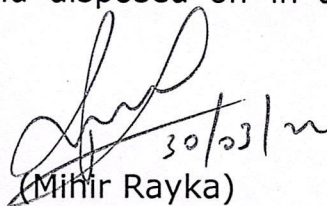
Jan'18 to Mar.18 within the prescribed time limit. Therefore, I find that the *adjudicating authority* has correctly rejected the refund claim on ground of time barred.

6. 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 1aw.

7. Accordingly, I do not find any reason to interfere with the decision taken by the *adjudicating authority* vide "*impugned orders*". In view of above discussion, I reject both the appeals filed by the '*appellant*'.

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

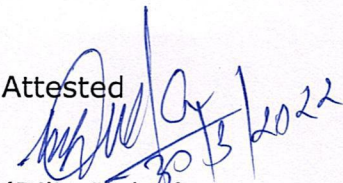
The appeals filed by the '*Appellant*' stand disposed off in above terms.


(Mihir Rayka)

Additional Commissioner (Appeals)

Date: 30.03.2022

Attested


(Dilip Jadav)
Superintendent
Central Tax (Appeals)
Ahmedabad

By R.P.A.D.

To,
M/s. British Deputy High Commission,
Courtyard by Marriott, Ramdevnagar Cross Road,
Satellite, Ahmedabad - 380015

Copy to:

1. The Principal Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner, CGST & C. Ex., Appeals, Ahmedabad.
3. The Commissioner, CGST & C. Ex., Ahmedabad-North.
4. The Deputy/Assistant Commissioner (Nodal Officer for sanction of UIN Refund), CGST & C. Ex, Division-I (Naroda), Ahmedabad North.
5. The Additional Commissioner, Central Tax (System), Ahmedabad North.
- ✓ 6. Guard File.
7. P.A. File