



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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रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/623/2020-Appeal- O/o COMMR-CGST-APPL-AHMEDABAD / 2140 To 2145

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-002-APP-ADC-21/2021-22
दिनांक Date : 12.07.2021 जारी करने की तारीख Date of Issue : 13.07.2021

श्री मोहित अग्रवाल अपर आयुक्त (अपीलस) द्वारा पारित
Passed by Shri. Shri. Mohit Agrawal, Additional Commissioner (Appeals)

ग Arising out of Order-in-Original No RFD-06 No. ZY2408200105675 dated 08.08.2020
passed by Assistant Commissioner, CGST & C.Ex Division-VI, Ahmedabad North

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

Appellant- M/s Modex Trading Private Limited.

Respondent- Assistant Commissioner, CGST & C.Ex., Division-VI, 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) <u>Full amount of Tax, Interest, Fine, Fee and Penalty</u> arising from the impugned order, as is admitted/accepted by the appellant, and (ii) A sum equal to <u>twenty five per cent</u> 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

This appeal has been filed by M/s. Modex Trading Private Limited, 408-409, 4th Floor, Zodiac Square, Opp. Gurudwara, S.G. Highway, Ahmedabad-380054 (hereinafter referred as 'appellant') appeal against Order No. ZY2408200105675 dated 08.08.2020 (hereinafter referred as 'impugned order') passed by the Assistant Commissioner, Central GST & C.Ex., Division-VI, Ahmedabad North (hereinafter referred as 'adjudicating authority').

2.1. The facts of the cases, in brief, are that the appellant is engaged in business of providing business and management consultancy service and also engaged in trading activity in apparels, accessories, footwear, cosmetics, shopping bags, stationeries etc., having GST NO. 24AAHCM4760B1ZS. The appellant filed refund claim amounting to Rs. 10,19,153/- in respect of IGST paid on export of service during the month of April-2020 and May-2020 under the provision of Section 54 of the CGST Act 2017.

2.2. On preliminary scrutiny of the refund claim submitted by the applicant, notice for rejection of application for refund in FORM-GST-RFD-08 dated 21.07.2020 was issued to the appellant for reason of rejection of refund claim shown as "other". The appellant filed reply of notice vide letter dated 23.07.2020 and stated that they had made payment for export of service with payment of tax in the month of April & May-2020 and submitted declaration as required under the proviso to Section 54(3), Undertaking in relation to Section 16(2)(c) and Section 42(2), copy of GSTR-2A of the relevant period and stated that they have not taken any input credit in the month of April & May-2020 and hence uploaded blank Annexure B i.e statement of invoices. The adjudicating authority vide above impugned order rejected the refund claim amounting to Rs. 10,19,153/-.

3. Being aggrieved with the impugned order, the appellant preferred this appeal contesting *inter alia* that the refund of rejection has not been provided in the rejection order and hence on inquiring about the reason for rejection of refund claim, it is informed that the refund was rejected due to technical error and due to non-uploading of GSTR-2A of the



relevant period. They further stated that as per the provision of Section 54(1) of CGST Act, 2017, they have filed refund claim in respect of IGST paid on the export of service and filed refund claim.

4. In the virtual personal hearing held on 16.04.2021 through virtual mode. Ms Neha Beriwal, CA appeared on behalf of the appellant for hearing and re-iterated the submissions made in 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. 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. It is observed from the imposed order that the adjudicating authority on receipt of the refund application of the appellant found that the refund claim is inadmissible and hence issued notice without any specific ground and rejected the claim. It is also observed that the adjudicating authority in his impugned order (GST-RFD-06) passed remarks that "reject an amount of INR 0 to M/s MODEX TRADING PRIVATE LIMITED having GSTIN 24AAHCM4760B1ZS under sub-section () of section) of the Act/under section - of the Act" and have not shown any specific ground of rejection of refund claim. The appellant in his appeal also stated that the refund of rejection has not been provided in the rejection order. Therefore, to ascertain the actual ground of rejection of refund claim, matter has been referred to the adjudicating authority and the adjudicating authority i.e Assistant Commissioner, Central GST & C.Ex., Division-VI, Ahmedabad North vide their letter F.No. GST-06/04-280/Refund(Misc)/2021-22 dated 15.06.2021 has now clarified as under:

The reason for rejection of refund claim was that taxpayer has not submitted the Copy of FIRC/BRC No. IT36702004274579 dated 14.07.2020 in respect of Inv No. MOD/AHM/20-21/01 dated 15.04.2020 as mentioned in statement 2. Further taxpayer has not submitted the copy of GSTR-2A with the refund claim and both documents are required as per Circular No. 125/44/2019-GST dated 31.03.2020.

7. It is observed from the above that the rejection of the claim happened on account of non submission of copy of FIRC/BRC No. IT36702004274579 dated 14.07.2020 in respect of Inv No. MOD/AHM/20-



21/01 dated 15.04.2020 as mentioned in statement 2 only which is the core grounds of the present appeal. Thus, I find that the document required for the refund claim was not submitted by the appellant to the adjudicating authority and hence, the adjudicating authority rightly rejected the refund claim of the appellant. Further, I also find that the appellant have also not provided required documents alongwith the appeal memorandum and hence, in absence of such documentary evidence, the contention of the appellant is not acceptable. I therefore do not find any infirmity in the impugned order as the claim has been rightly rejected after giving proper opportunity to the appellant in term of natural justice.

8. In view of the discussions above, I reject the appeal filed by the appellant and uphold the impugned order.

9. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।
The appeals filed by the appellant stands disposed of in above terms.

Mohit Agrawal
12/7/21

(Mohit Agrawal)
Additional Commissioner (Appeals)
Ahmedabad
12/07/2021

Attested

(Signature)

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



By R.P.A.D./Speed Post

To,
M/s. Modex Trading Private Limited,
408-409, 4th Floor, Zodiac Square,
Opp. Gurudwara, S.G. Highway, Ahmedabad-380054

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-VI, Ahd-North.
6. Guard File
7. P.A. File