



सत्यमेव जयते

आयुक्त का कार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeal Ahmedabad Commissionerate
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.
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By Regd. Post

DIN NO. : 20211064SW000011151C

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(क)	फाइल संख्या / File No.	GAPPL/ADC/GSTP/694,1147,1150,1152/2021-APPEAL
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-JC-47 to 50/2021-22 and 29.10.2021
(ग)	पारित किया गया / Passed By	श्री मिहिर रायका, संयुक्त आयुक्त अपील Shri Mihir Rayka, Joint Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of issue	29.10.2021
(ङ)	Arising out of Order-in-Original No. (1) ZZ2402210197425 dated 17.02.2021, (2) ZO2405210419984 dated 24.05.2021, (3) ZR2405210419851 dated 24.05.2021, (4) ZT2405210419885 dated 24.05.2021 issued by Assistant Commissioner, Division - VII (S G Highway East), Ahmedabad North	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Adi Enterprises (24AANFA3259Q1ZX) Address :- Ground Floor, Heritage Tower, B/h Visnagar Bank, Ashram Road, Usmanpura, Ahmedabad-380014

(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

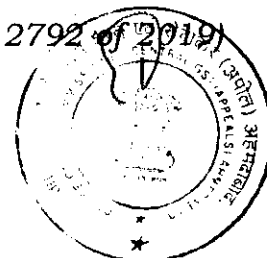
M/s. ADI Enterprises, Ground Floor, Heritage Tower, B/h. Visnagar Bank, Ashram Road, Usmanpura, Ahmedabad - 380014, Gujarat, (*hereinafter referred as 'appellant'*) has filed the following four appeals against the Orders passed in the Form-GST-RFD-06 (*hereinafter referred as 'impugned order'*) rejecting refund claims, issued by the Deputy Commissioner of CGST & Central Excise, Division - VII - S G Highway East, Ahmedabad North Commissionerate (*hereinafter referred as 'adjudicating authority'*).

Sr. No.	OIO No. & Date	Appeal No. & Date	Refund Claims Rs.
01	ZO2405210419984 Date : 24.05.21	GAPPL/ADC/GSTP/1147/2021 Date : 29.06.21	4,44,63,852/-
02	ZR2405210419851 Date : 24.05.21	GAPPL/ADC/GSTP/1150/2021 Date : 29.06.21	2,85,79,715/-
03	ZT2405210419895 Date : 24.05.21	GAPPL/ADC/GSTP/1152/2021 Date : 29.06.21	2,89,45,877/-
04	ZZ2402210197425 Date : 17.02.21	GAPPL/ADC/GSTP/694/2021 Date : 05.04.21	9,94,54,938/-

2(i). The '*appellant*' is a partnership firm holding GSTIN No.24AANFA3259Q1ZX and engaged in business of providing Coal to its clients and customers. The '*appellant*' had filed the Refund claims of the amounts as mentioned in above table on the ground of Inverted Duty Structure (Where rate of GST on inward supplies being higher than the outward supplies). In response to said refund claims the '*adjudicating authority*' had issued "Notice for rejection of application for refund" in all above four matters. Thereafter, the '*adjudicating authority*' has rejected the refund claims vide above stated RFD-06 i.e. the '*impugned order*' dated 17.02.21 & 24.05.21 on the ground that refund of 'Input services' is not admissible. Further, the refund claim of Rs.9,94,54,938/- was rejected on the ground of time barred also.

2(ii). Being aggrieved with the '*impugned order*', the '*appellant*' has filed the aforementioned four appeals on the ground that -

"the Hon'ble High Court of Gujarat in case of M/s. V.K.C. Food Steps India Pvt. Ltd. & Others (Special Civil Application No. 2792 of 2019)



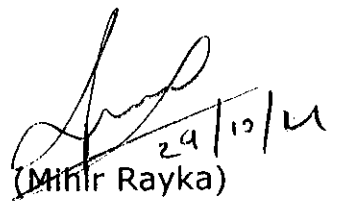
have given the judgment that refund should be allowed for Input Credit under Inverted Duty Structure is allowed on both Input Goods as well as Input Services."

3. The appellant vide four separate letters dated 18.10.2021 has informed about withdrawal of all aforesaid four appeals. In the said letters the appellant has stated that *"they have claimed refunds on the basis of the judgment given by the Gujarat High Court in case of VKC Foodsteps India Pvt. Ltd. However, now the Hon'ble Supreme Court in case of Civil Appeal No. 4810 of 2021 in case of Union of India V/s. VKC Foodsteps India Pvt. Ltd. wherein it is clarified that no refund would be allowed in case of input services. The refund will be allowed u/s. 54 (3) of the CGST Act, 2017 and Rule 89(5) of the CGST Rules, 2017 only on Input Goods"*. The appellant has further mentioned in the letters that as the decision given by the Apex Court, now they have no hope/scope to get refund and therefore, they would like to withdraw the respective appeals.

4. Since the 'appellant' has claimed refunds of unutilized ITC of 'Input Services' solely on the ground of Inverted Duty Structure which is inadmissible as per the Hon'ble Supreme Court's judgement in the case of M/s. VKC Foodspets India Pvt. Ltd. As the appellant has requested for withdrawal of appeals, the appeals under consideration has become infructuous. Accordingly, considering the appellant's request for withdrawal of appeal, I dismiss the appeal as withdrawn.

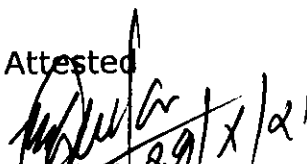
5. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

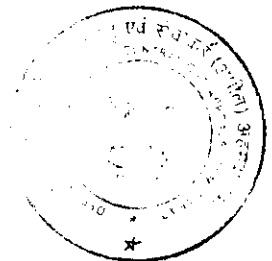
5. The appeals filed by the appellants stand disposed of in above terms.


(Mihir Rayka)

Joint Commissioner (Appeals)

Date: 29.10.2021

Attested

(Dilip Jadhav)
Superintendent
Central Tax (Appeals)
Ahmedabad



By R.P.A.D.

To,

M/s. ADI Enterprises,
Ground Floor, Heritage Tower,
B/h. Visnagar Bank, Ashram Road,
Usmanpura, Ahmedabad - 380014

Copy to:

1. The Principal Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner, CGST & C. Excise, Appeals, Ahmedabad.
3. The Commissioner, Central GST & C. Ex., Ahmedabad-North.
4. The Deputy/Assistant Commissioner, CGST & C. Ex, Division-VII - S G Highway East, Ahmedabad North.
5. The Additional Commissioner, Central Tax (System), Ahmedabad North.
- ✓ 6. Guard File.
7. P.A. File

