



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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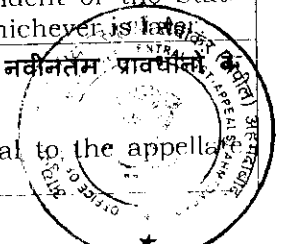
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DIN NO. : 20211064SW000000B02D

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(क)	फाइल संख्या / File No.	GAPPL/ADC/GSTP/322 & 323/2021-APPEAL
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-JC-51 & 52/2021-22 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) ZW2410200306566 dated 26.10.2020, (2) ZN2411200110901 dated 09.11.2020 issued by Assistant Commissioner, Division - V (Dholka), Ahmedabad North	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Shanti Spintex Pvt. Ltd. (24AAOCS8908E1Z3) Address :- Sub Plot 1, Unit 1, Survey No. 297, Dholi Integrated Spinning Park Limited, Dholi, Dholka, Ahmedabad-382240

(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 .	



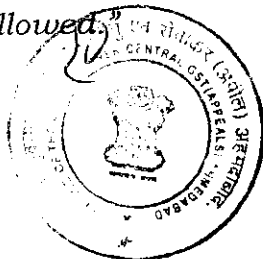
ORDER-IN-APPEAL

M/s. Shanti Spintex Private Limited, Sub Plot 1, Unit 1, Survey No. 297, Dholi Integrated Spinning Park Limited, Dholi, Dholka, Ahmedabad - 382240, Gujarat, (*hereinafter referred as 'appellant'*) has filed the following two appeals against the Orders passed in the Form-GST-RFD-06 (*hereinafter referred as 'impugned order'*) rejecting refund claims, issued by the Assistant Commissioner of CGST & Central Excise, Division - V - Dholka, Ahmedabad North Commissionerate (*hereinafter referred as 'adjudicating authority'*).

Sr. No.	OIO No. & Date	Appeal No. & Date	Refund Claimed Rs.	Refund Rejected Rs.
01	ZW2410200306566 Date : 26.10.20	GAPPL/ADC/GSTP/322/2021 Date : 25.01.21	35,33,287/-	5,85,684/-
02	ZN2411200110901 Date : 09.11.20	GAPPL/ADC/GSTP/323/2021 Date : 25.01.21	11,23,432/-	9,720/-

2(i). The '*appellant*' is holding GSTIN No.24AAOCS8908E1Z3 and engaged in business of Textile manufacturing. The '*appellant*' had filed the aforesaid Refund claims of accumulated Input Tax Credit 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 both above matters. Thereafter, the '*adjudicating authority*' has rejected certain amount of refund claims as mentioned in above table vide above stated RFD-06 i.e. the '*impugned order*' dated 26.10.20 & 09.11.20. The '*adjudicating authority*' while rejecting refund claims mentioned in the '*impugned order*' that refund claims rejected "*based on verdict of Madras High Court Judgement in the case of Tvl. Transtonnelstory Afcons Joint Venture and Rule 89(5) of the CGST Rules, 2017 read with Section 54(3) of the CGST Act, 2017*". Basically, the refund of accumulated ITC of Input Services due to Inverted Duty Structure was rejected.

2(ii). Being aggrieved with the '*impugned order*', the '*appellant*' has filed the aforementioned two appeals on the ground that -
"the Learned Assistant Commissioner has erred in law and facts of the cases by rejecting refund application without considering the judgment of Hon'ble High Court of Gujarat in case of M/s. VKC Foodsteps India Pvt. Ltd. As per said judgment refund of ITC of Input Services is allowed."




3. The 'appellant' vide letter dated 21.10.2021 has stated that they have filed the aforesaid appeals placing reliance on judgment of Hon'ble Gujarat High Court in the case of VKC Foodsteps India Pvt. Ltd. V/s. Union Of India for claiming refund of accumulated ITC of Input Services. However, in the said matter based on recent judgment of Hon'ble Supreme Court the 'appellant' wishes to withdraw both the appeals.

4. Since the 'appellant' has claimed the refunds of accumulated ITC of 'Input Services' 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।

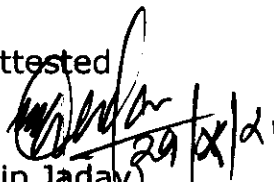
5. The appeals filed by the appellants stand disposed of in above terms.

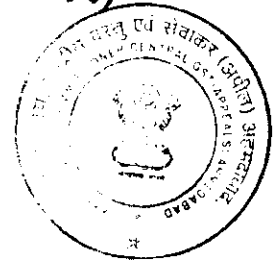

(Mihir Rayka) 29/10/21

Joint Commissioner (Appeals)

Date: 29.10.2021

Attested


(Dilip Jadav)
Superintendent
Central Tax (Appeals)
Ahmedabad



By R.P.A.D.

To,

M/s. Shanti Spintex Private Limited, Sub Plot 1, Unit 1,
Survey No. 297, Dholi Integrated Spinning Park Limited,
Dholi, Dholka, Ahmedabad - 382240

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