
 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-380015 GST Bhavan, Revenue Marg, Ambawadi, Ahmedabad Phone: 079-26305065 Fax: 079-26305136 E-Mail : commrappl1-cexamd@nic.in	

By Regd. Post

DIN NO. : 20211264SW0000333CF4

(क)	फाइल संख्या / File No.	GAPPL/ADC/GSTD/13/2021-APPEAL / 4501 T 040606
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-JC-68/2021-22 & 06.12.2021
(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	06.12.2021
(ङ)	Arising out of RFD-06 Order No. ZX2408200022420 dated 03.08.2020 issued by Assistant/Deputy Commissioner, Division – I, Ahmedabad North	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	The Assistant/Deputy Commissioner, CGST & C.Ex., Division-I (Naroda) Ahmedabad North, Address :- Ground Floor, Jivabhai Mansion Building, Ashram Road, Ahmedabad-380009
	प्रतिवादी का नाम और पता / Name and Address of the Respondent	M/s Bimla Steel Corporation (Legal Name - Gambhirsinh B Rajput) (GSTIN-24BUXPR8080B1Z5) Address :- S-204, Madhuvan Glory, Behind SRP Quarters, Near Shree Ram Chowk, Nava Naroda, Ahmedabad-382330

(A)	<p>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.</p>
(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 –
	<p>(i) Full amount of Tax, Interest, Fine, Fee and Penalty arising from the impugned order, as is admitted/accepted by the appellant; and</p> <p>(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.</p>
(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)	<p>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.</p>

ORDER-IN-APPEAL**Brief Facts of the Case :**

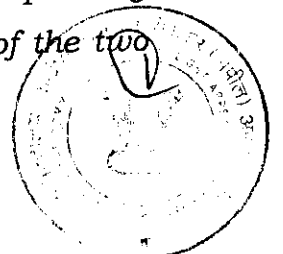
The following appeal has been filed by the Assistant Commissioner, CGST & C. Ex., Division - I, Ahmedabad North Commissionerate (hereinafter referred as '*appellant*' / '*department*') in terms of Review Order issued under Section 107(2) of the CGST Act, 2017 (hereinafter referred as '*the Act*') by the Reviewing Authority against RFD-06 Order (hereinafter referred as '*impugned order*') passed by the Deputy Commissioner, CGST & C. Ex., Division - I, Ahmedabad North (hereinafter referred as '*adjudicating authority*') in the case of **M/s. Bimla Steel Corporation (Legal Name - Gambhirsinh B. Rajput**, S-204, Madhuvan Glory, Behind SRP Quarters, Near Shree Ram Chowk, Nava Naroda, Ahmedabad (hereinafter referred as '*Respondent*').

Appeal No. & Date	Review Order No. & Date	RFD-06 Order No. & Date
GAPPL/ADC/GSTD/13/2021- APPEAL Dated 28.01.2021	48/2020-21 Dated 22.01.2021	ZX2408200022420 Dated 03.08.2020

2(i). Brief facts of the case are that the '*Respondent*' holding GSTIN No. 24BUXPR8080B1Z5 had filed refund claim of Rs.63,738/- (CGST 31868 and SGST 31870) for the period from 01.01.2020 to 31.03.2020 under Section 54 of the CGST Act, 2017. The refund claim was preferred under Section 54 of the CGST Act, 2017 on account of Exports of Goods / Services - without payment of Tax (Accumulated ITC). The *adjudicating authority* has sanctioned the aforesaid refund claim vide '*impugned order*'.

2(ii). In the grounds of appeal the '*Department*' has submitted that during the course of post-audit of the above said refund claim, it was observed that -

"As per para 9.1 of Circular Number 37/11/2018-GST dated 15.03.2018, it has been clarified that during the processing of the refund claim, the value of the goods declared in the GST invoice and the value in the corresponding shipping bill/ bill of exports should be examined and the lower of the two values should be sanctioned as refund ..."



In the aforesaid refund claim the *department* has observed that the value of export as per GST Invoices declared by the *Respondent* is Rs.10,53,792/- is differed from its corresponding value for export as per shipping bill i.e. FOB value Rs.10,40,405/-. Accordingly, the *department* has stated that the lower of the above value should be taken for the computation of refund as per Circular No. 37/11/2018 – GST dated 15.03.2018. However, the refund claim was sanctioned without considering the lower value and thus the *adjudicating authority* has sanctioned excess amount of refund to the *Respondent*. Accordingly, the calculation of eligible refund is worked out by the *department* as under :

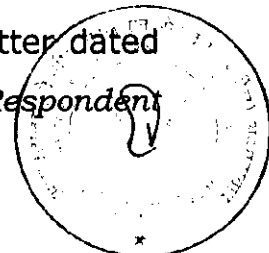
Turnover of Zero rated supply of goods (1)	Net Input Credit (2)	Adjusted total Turnover (3)	Refund amount admissible (1*2/3)	Refund Sanctioned	Excess amount refunded
Rs.10,40,405/-	Rs.63,738/-	Rs.10,53,792/-	Rs.62,928/-	Rs.63,738/-	Rs.810/-

2(iii). In view of above, the '*Department*' has submitted that while passing the aforesaid *impugned order*, the *adjudicating authority* has made a mistake in considering the turnover of zero rated supply of goods in terms of CBIC's aforesaid Circular dated 15.03.2018, which resulted into sanction of excess refund as per formula prescribed under Rule 89(4) of the CGST Rules, 2017. Considering the said facts the *department* has stated that the *impugned order* passed by the *adjudicating authority* is not proper and legal and therefore prayed for relief as under :

- To set aside the *impugned order* to the extent of excess amount of refund so sanctioned.
- To pass order directing to the original authority to recover the amount erroneously refunded to the claimant with interest
- To pass any other order(s) as deemed fit in the interest of justice.

Personal Hearing :

3. The *Respondent* vide letter dated 12.03.2021 to this appellate authority has informed that they have already replied to the Assistant Commissioner, Division – I Naroda, Ahmedabad vide their letter dated 25.01.2021 about the excess refund related matter. The *Respondent*

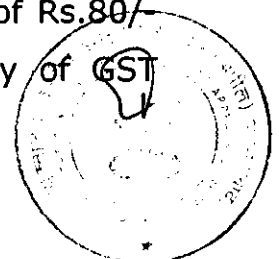


has also submitted the copy of their letter dated 25.01.2021. As per said letter dated 25.01.2021 the *Respondent* has paid Rs.900/- including interest of Rs.80/- in connection with above excess amount of refund of Rs.810/-.

Discussion and Findings :

4(i). I have carefully gone through the facts of the case available on records, submissions made by the '*Department*' in the Appeal Memorandum. I have also gone through the letter dated 25.01.2021 of the '*Respondent*'. I find that the '*Respondent*' has preferred refund claim of the ITC accumulated on account of Export of Goods / Services without payment of Tax and the *adjudicating authority* has sanctioned the said refund claim vide *impugned order*. However, during the course of post audit of refund claim so sanctioned by the *adjudicating authority*, the *department* has observed that the adjudicating authority has not considered the correct value in terms of CBIC Circular No. 37/11/2018 - GST dated 15.03.2018. I find that while passing of such refund claims the refund sanctioning authority has to examine the value declared by claimant and lower value among value declared in GST Invoice and value declared in corresponding Shipping Bills / Bill of Export is to be considered. Thereafter, admissible amount of refund is to be worked out in terms of formula as prescribed in Rule 89(4) of the CGST Rules, 2017. However, in present matter I find that the '*Adjudicating Authority*' has not examined the value properly and thus sanctioned the excess amount of refund. Accordingly, the '*Adjudicating Authority*' has sanctioned the excess amount of refund to the '*Respondent*' and thus the Refund Order issued in Form RFD-06 which is being challenged in the present appeal is found to be not proper and legal.

4(ii). On going through the letter dated 25.01.2021 of the *Respondent* I find that the *Respondent* has accepted the view of *department* and paid the excess amount of refund so sanctioned to them. The *Respondent* has informed that they have paid the same and thus requested to accept the same. The *Respondent* has also produced the copy of Challan. According to said challan CPIN : 21012400630778 the *Respondent* has paid Rs.900/- including interest amount of Rs.80/- on 26.01.2021. Further, the *Respondent* has produced copy of GST



DRC-03 dated 26.01.2021 i.e. "Intimation of payment made voluntarily or made against the show cause notice (SCN) or statement"

5. In view of above discussions, I find that the *impugned order* is not legal and proper and therefore, require to be set aside. Accordingly, the appeal filed by the 'Department' is allowed and set aside the '*impugned order*' to the extent of excess amount of refund so sanctioned.

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


6. The appeal filed by the 'Department' stand disposed off in above terms.

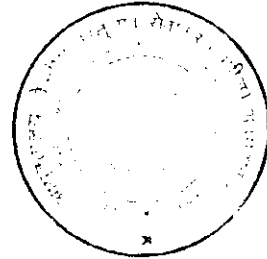

(Mihir Rayka)

Joint Commissioner (Appeals)

Date: 06.12.2021

Attested


(Dilip Jadau)
Superintendent
Central Tax (Appeals)
Ahmedabad



By R.P.A.D.

To,
The Assistant / Deputy Commissioner,
CGST & C. Ex., Division - I,
Ahmedabad North.

Appellant

M/s. Bimla Steel Corporation,
(Legal Name - Gambhirsinh B. Rajput,
S-204, Madhuvan Glory, Behind SRP Quarters,
Near Shree Ram Chowk, Nava Naroda, Ahmedabad

Respondent

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, CGST & C. Ex, Division-I, Ahmedabad North.
5. The Additional Commissioner, Central Tax (System), Ahmedabad North.
6. Guard File.
7. P.A. File