



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.

☎ 07926305065- टेलीफैक्स 07926305136



DIN NO. : 20220164SW000000AB99

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/536/2020-APPEAL / 5832 To 5837

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-002-APP-ADC-90/2021-22**
दिनांक Date : **19-01-2022** जारी करने की तारीख Date of Issue : 19-01-2022

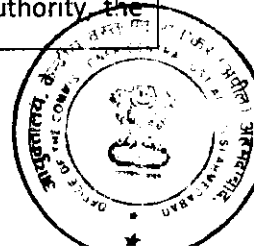
श्री मिहिर रायका अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No **ZY2409200113498** dated **08.09.2020** issued by Deputy Commissioner, Central Goods and Services Tax, Division-IV, Ahmedabad North

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
M/s. Bueno Salud Care (India) Private Limited
K-20/21, Gallops Industrial Estate, Part - II,
Vasna Chachawadi, Ta. Sanand
Ahmedabad, Gujarat - 382213

(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 :**

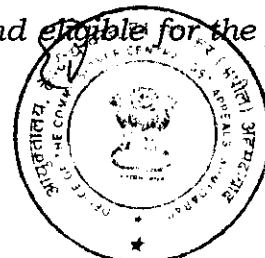
M/s. Bueno Salud Care (India) Private Limited, K-20/21, Gallops Industrial Estate, Part - II, Vasna Chacharwadi, Ta. Sanand, Ahmedabad - 382213 (hereinafter referred as '*appellant*') has filed the present appeal against Order No. ZY2409200113498 dated 08.09.2020 passed in the Form GST-RFD-06 (hereinafter referred as '*impugned order*') passed by the Deputy Commissioner, CGST & C. Ex., Division - IV, Ahmedabad North (hereinafter referred as '*adjudicating authority*').

2(i). The '*appellant*' is holding GSTIN No.24AAHCB0068R1ZD. As per the statement of facts mentioned in the appeal memo -

- the '*appellant*' is engaged in manufacturing and supply of Pharmaceutical Products falling under HSN 2106, 3304 and 3004.
- The major raw material and packing material attracts GST @ 18% and the GST rate on outward supply of Items of HSN 2106, 3304 & 3004 is 12%.
- As inputs Tax rate being higher, there is accumulation of Input Tax Credit in appellant's Input Tax Credit Ledger. The appellant has referred the provisions of Section 54(3)(iii) read with Rule 89(5) of the CGST Rules, 2017 and accordingly filed refund claim of Rs.32,45,626/- of accumulated ITC on account of Inverted Tax Structure as under :

Turnover of inverted rated supply of goods and services (1)	Tax payable on such inverted rated supply of Goods and Services (2)	Adjusted Total Turnover (3)	Net Input Tax Credit (4)	Maximum Refund amount to be claimed [(1*4/3)-2]
39597918	4744199	40868455	8246186	3245626

- In response to aforesaid refund claim the Department has issued a Show Cause Notice on 12.08.2020 wherein it was alleged that -
 - o Self declaration under Rule 89(2)(m) was not found uploaded
 - o There was mismatch of Rs.10,022/- in Turnover of Inverted rate supply and
 - o As per Annexure B the ITC of Rs.34,22,609/- considered towards Input Services, RCM and of the Invoices of January' 2020 & February' 2020 for calculation of refund, whereas refund claimed for March' 2020. Hence same is not found eligible for the purpose of refund claim.



- Without considering the submissions of appellant against the above SCN, the adjudicating authority has rejected the entire refund claim vide impugned order.

2(ii). As per the impugned order, the claimant vide reply to SCN vide letter dated 19.08.2020 submitted point wise reply as under :

- Claimant has accepted that inadvertently there was mismatch of Turnover of Inverted Rated Supply of Goods as alleged in SCN. Even Tax amount on Inverted Duty supply was not as per uploaded invoices and needs to be rectified. Given the rectification on account of such mismatch, refund claim as per Rule 89(5) stands to be revised as under:

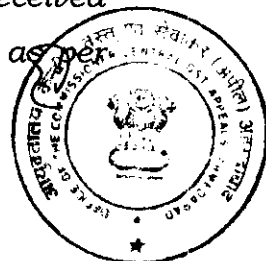
IDS Turnover	Tax on IDS Turnover	Total T/o	Net ITC	Maximum Eligible Refund
3,95,97,918/-	47,27,947/-	4,08,68,455/-	82,46,187/-	32,61,879/-

- It is verifiable from the above table that on rectification the claim stands revised upward.

Regarding ineligible ITC of Rs.34,22,609/- following bifurcation with list of invoices of Sr. No. 1 & 2 was submitted to the adjudicating authority-

Sr. No.	Bifurcation of ITC alleged as Ineligible as per SCN	IGST	CGST	SGST	Total
1	ITC on Inputs availed in March 2020 as per Section 36(4) for the supplies done by Supplier who are quarterly returns filers	38053	681605	681605	1401263
2	ITC on Inputs availed in March 2020 for the supplies invoiced during last week of February 2020 but received after Quality Check in March 2020	329939	560500	560500	1450939
3	ITC on Services for the period March 2020	216955	176726	176726	570407
	Total	584947	1418831	1418831	3422609

- Availed the ITC of invoices specified at Sr. No. 1 above, as per Rule 36(4) which allows availing ITC only if same finds reflection in GSTR2A of the month which return is filed. ITC of Rs.14,01,263/- of Sr. No. 1 pertains to suppliers, who are Quarterly Return filers and ITC of them was obtained in March 2020 only on reflection of GSTR 2A.
- As regards to ITC of Rs.14,50,939/- related to Invoice of Sr. No. 2 of above table, it was clarified that goods under said invoices received during March 2020 and hence ITC was availed in March 2020 as per



Rule 16(2). Thus, such ITC is also in order and rightfully forms the part of Net ITC.

- In order to determine the eligible refund, it has to be as per Rule 89(5). Referred Rule 89(5) (a) - "Net ITC" shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and
- Also referred Rule 89(4) (F) - "Relevant period" means the period for which the claim has been filed.
- Given the provisions in force, rightly calculated "Net ITC" for the relevant period i.e. March - 2020.

As regards to Sr. No. 3 of above table, ITC pertains to Invoices related to Input Services.

- Hon'ble Gujarat High Court's order in SCA No. 2792 of 2019 wherein it was held that "Explanation (a) to Rule 89(5) of the CGST Rules, 2017 is ultra vires the provisions of subsection (3) of Section 54 of the CGST Act, 2017." Therefore, said ITC of Input Services considered as a part of Net ITC for determining the Refund Claim as per Rule 89(5) of the CGST Rules, 2017.

Further, all the invoices for which ITC has been availed in GSTR3B for the month of March 2020 and considered while applying Inverted Duty Structure Refund of the month, are shown by suppliers in GSTR2A. Thus there is no mismatch of ITC with GSTR2A and such ITC cannot be held as ineligible to determine GST Refund claim for the period March 2020.

2(iii). The adjudicating authority in the impugned order has given findings that -

- Claimant has filed refund application on 30.07.2020 amounting to Rs.32,45,626/- on ground of ITC accumulated due to inverted tax structure.
- The claimant has not submitted the certificate as required under Rule 89(2)(m). The said certificate is in connection with that the incidence of tax, interest or any other amount claimed as refund has not been passed on to any other person.
- As regards to mismatch in turnover of inverted rated supply of goods the reasons submitted by claimant is not correct. The turnover as per GST-RFD01 is Rs.3,95,97,918/- and Tax Rs.47,44,199/- whereas in GSTR-1M it is 3,95,87,896/- and Tax is Rs.47,42,153/-. Hence, reply submitted by claimant is not correct, proper and justifiable.



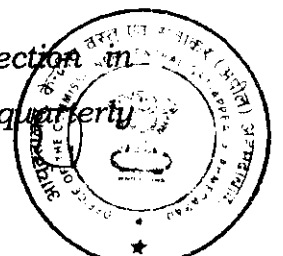
- Refund claim filed for the month of March 2020 and claim the ITC which reflect in GSTR-2A for the relevant period as per Rule 36(4) for the supplies done by suppliers who have filed their returns quarterly. If the claimant would like to avail benefit of Section 36(4) he would have an option to file refund claim on quarterly basis.
- Relevant period means – “period for which the claim has been filed.” The claimant has filed refund claim for March 2020 i.e. on monthly basis and want to avail ITC for the quarter is not applicable. Therefore, claimant is not eligible for ITC of Rs.14,01,263/- claimed during tax period on account of invoices issued in the past period.
- As regards to ITC of Rs.14,50,939/- the claimant has submitted list of invoices for the supplies invoiced during last week of February, 2020 but received the goods in March 2020. In this regard, the adjudicating authority did not found any invoice, copy of inward register or any other relevant documents evidencing that goods were received in March, 2020. Hence, claimant is not eligible for ITC of Rs.14,50,939/-.
- As regards to ITC of input services Rs.5,70,407/- considered in Net ITC, the adjudicating authority has referred Circular No. 125/44/2019-GST and held that ITC of Input Service as ineligible for considering it for Net ITC for determining refund amount.

In view of above, the adjudicating authority has held that claimant is not eligible for total ITC (i.e. (i) Rs.1401263/-, (ii) Rs.1450939/- and (iii) Rs.570407/-) Rs, 34,22,609/- availed and considered for the purpose of calculation of refund being claimed for the month of March, 2020.

On the basis of above findings the adjudicating authority has rejected the entire refund claim of Rs.32,45,626/- under sub-section (9) of Section 54 of the CGST Act, 2017 read with sub-rule (3) of Rule 92 of CGST Rules, 2017.

2(iv). Being aggrieved with the order, the appellant has filed the present appeal on 28.10.2020. The grounds of appeal are as under :

- The adjudicating authority had not granted the Personal Hearing and Order was passed without PH. The non grant of PH is against the principals of natural justice.
- Accepted that inadvertently there was a mismatch of turnover. Even, Tax amount on Inverted Duty supply was not as per uploaded invoices and same was required to be rectified. In such situation, there is mere difference of Rs. 25 from the actual claim.
- Rule 36(4) allows to availing ITC only if same finds reflection in GSTR2A. ITC of Rs.14,01,263/- pertains to suppliers who are quarterly



return filers and ITC of same availed in March, 2020 only on reflection of GSTR2A. Therefore, credit taken in March 2020 was just legal and in order. However, the adjudicating authority failed to accept the fact that ITC of Rs.14,01,263/- availed in month of March 2020 as per section 36(4) shall be considered ITC of the month March 2020 only, in spite of it being related to invoices issued in the month of January & February, 2020. Ld. Adjudicating Authority is unjust in not considering such ITC as ITC of relevant period i.e. March 2020 and thus the findings arrived at by the adjudicating authority is misplaced and without authority of law and the same deserves to be set aside in total.

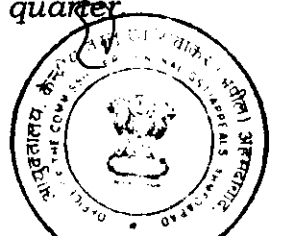
- As regards to ITC of Rs.14,50,939/- the adjudicating authority has observed that invoices bearing date of February 2020, but the goods were received in March 2020, no evidence like Inward register are adduced. Since no PH was granted, appellant had no opportunity to do so.
- As regards to ITC of Input Services, reliance was taken of order of Hon'ble High Court of Gujarat, however, adjudicating authority has not refuted claim on this count and thus such ITC shall form part of Net ITC.
- **The appellant has further submitted in the grounds of appeal that they are filing this appeal against rejection of refund amount of Rs.3245626/-. However, appeal is for refund of Rs.27,42,884/- only. As accepted the rejection of Rs.5,02,743/- which is on account of ITC of Rs.519030/- taken inadvertently while computing refund for the month of March, 2020. It relates to Invoice No. 561/19-20/B dated 18.03.2020 but for which the goods were received post Nationwide Lock down, in the month of May, 2020.**

In view of above grounds of appeal, the appellant has submitted that there is no mismatch of ITC with GSTR2A, hence such ITC cannot be held as ineligible. Accordingly, the Appellant made prayer that -

- The impugned order may be set aside with consequential relief to the applicant.
- Any other relief as may be deem fit in the above premises.

2(v). The Appellant vide letter dated 26.02.2021 to this appellate authority has submitted that -

- In certain cases supplier are quarterly return filers and therefore any given supply made to appellant get reflection in GSTR 2A only as and when the return (quarterly) is filed. Resultantly, any supply made during given quarter, the same gets place in GSTR 2A of the quarter



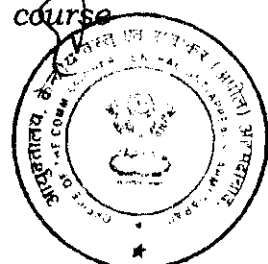
Thus towards the availment of ITC in March towards the Inputs received in that quarter is perfect as the ITC has been availed only after given supply found reflection in GSTR 2A. In support of such contention appellant has submitted copy of GSTR 2A for the month of March, 2020. Thus, the credit availed in the month of March, 2020. Accordingly, the same may please be accepted as legal and just.

- Further, it has been pleaded that in certain cases though the invoices of supply were of February, 2020 but the ITC has been taken as and when the supply actually and physically received by them. In support of same, submitted the copies of three invoices as sample to prove the point that the supply was only received in March, 2020 and accordingly, ITC was availed. These invoices bear the seal of work place with date reflecting the date of arrival of the goods.

Personal Hearing :

3. Personal Hearing in the matter was through virtual mode held on 13.12.2021. Shri M. K. Kothari, Consultant appeared on behalf of the 'Appellant'. During P.H. he has requested that he would like to submit additional submission to defend the case. Accordingly, he has submitted the written submission on same day on 13.12.2021. In the said additional written submission dated 13.12.21 the Appellant has stated that -

- At page No. 11 para-3 (Table-B) of the Grounds of appeal, **Input Tax Credit of Rs.5,70,407/- was taken** into consideration to arrive at the admissible refund, **it being credit taken on services. However, under changed scenario and clarity in the matter, said credit of Rs. 5,70,407/- may not be considered for the purpose of arriving at the admissible refund.**
- Further, reiterated that as given in para 6 (page 13) of the appeal that shown **Input Tax Credit of Rs.5,02,743-** inadvertently. **The same may not be considered to arrive at the admissible refund.**
- **After considering the above, net admissible refund stand at Rs.21,72,477/- only.**
- In the interest of justice, once again submitted that availment of tax credit on the invoices of last week of Feb., 2020 in the month of March, 2020 is permissible under CGST law and the same is within the scope Section 16(2) and has been accepted as just legal in other cases too. Such overlapping is attributed to late arrival of goods, quality check and transportation time. Such marginal delay in within the normal course and no provision of GST law is violated.



- *Certain findings have been incorporated in impugned RFD-06 by adjudicating authority to the effect that due to quarterly return filers (input suppliers), the appellant should file quarterly refund application. Such findings are without the authority of law and the same deserves to be quashed in total. In case of quarterly return filers, the credit can only be taken when the same get reflection in GSTR 2A. The availment of credit without reflection of the same in GSTR 2A would be in violation of Section 36(4) of the CGST Act, 2017, where only a violation of 20% is allowed.*
- *In the light of above, it is prayed that the refund of Rs.21,72,477/- may be granted.*

Discussion and Findings :

4(i). I have carefully gone through the facts of the case available on records, submissions made by the 'Appellant' in the Appeal Memorandum as well as additional submission made till date by the 'Appellant'.

I find that the 'Appellant' had filed the refund claim of Rs.32,45,626/- of the accumulated ITC due to Inverted Duty Structure under Section 54(3) of the CGST Act, 2017. In response to same, a show cause notice was issued to the Appellant proposing rejection of the refund claim on the ground that –

- Self-declaration under Rule 89 (2)(m) not found uploaded (certificate from CA or Cost Accountant to the effect that incidence of tax claimed as refund has not been passed on to any other)
- Mismatch of Turnover of Inverted Rated Supply of goods
- ITC taken based on Invoices of Jan. & Feb. 2020 considered for calculation of Refund, whereas refund claim is of March, 2020.
- ITC of Input Services also considered for refund claim.

The Appellant had submitted a reply dated 19.08.2020 in response to above SCN. However, without considering the said reply the adjudicating authority has rejected the entire amount of refund claim vide impugned order. Accordingly, the Appellant has preferred the present appeal.

4(ii). As regards to requirement of "Self-declaration under Rule 89 (2)(m)" I find that the Appellant has produced the copy of Certificate in Annexure 2 dated 15.10.2020 issued by Shri Anuj Premprakas H Aggarwal of M/s. Anuj Aggarwal & Co. Cost Accountants. On going through the said



certificate it is observed that in the certificate it is mentioned that "in respect of Refund of Rs.32,45,626/- claimed by M/s. Bueno Salud Care India Private Limited for the tax period March 2020, the incidence of tax and interest has not been passed on to any other person".

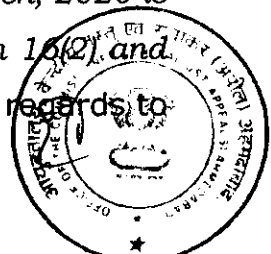
4(iii). As regards to "Mismatch of Turnover of Inverted Rated Supply of goods" I find that the *Appellant* in the grounds of appeal has accepted the same and submitted that inadvertently there was a mismatch of turnover of inverted rated supply of goods but simultaneously by rectifying Tax amount on Inverted Duty supply there will be a marginal difference in the actual refund claim amount.

4(iv). I find that at para 6 of grounds of appeal the *Appellant* has submitted that they had preferred refund claim of Rs.32,45,626/- however, present appeal is for refund of Rs.27,42,884/- only. As they have considered ITC of Rs.5,19,030/- of Invoice No. 561/19-20/B dated 18.03.2020 inadvertently, wherein the goods was received in May, 2020. **So, the appellant has accepted rejection of Refund Rs.5,02,743/- on this count.**

4(v). Further, as regards to "ITC of Input Services considered for refund claim" I find that the *Appellant* vide additional submission dated 13.12.2021 has submitted that under changed scenario and clarity in the matter the **credit of Rs.5,70,407/- may not be considered for refund** as said credit was pertains to Input Services. Accordingly, I find that **the appellant has accepted rejection of Refund on account of ITC of Input Services also.**

Accordingly, I find that the *Appellant* vide additional submission dated 13.12.2021 requested for refund of Rs.21,72,477/- only.

4(vi). As regards to rejection of refund on the ground that ITC availed on Invoices of Jan. & Feb. 2020 were considered for calculation of Refund of March, 2020 I find that in the present appeal and through additional submissions the *Appellant* is mainly contending about this ground of rejection of refund. I find that the *Appellant* vide additional submission dated 13.12.2021 has submitted that *availment of Input Tax Credit on the invoices of last week of Feb, 2020 in the month of March, 2020 is permissible under CGST law and same within the scope of Section 16(2) and has been accepted as just and legal in other cases too.* Further, as regards to



availment of ITC in March 2020 of invoices of Jan & Feb. 2020 the Appellant has submitted that in case of quarterly return filers, the credit can only be taken when the same get reflection in GSTR 2A.

4(vii). In this regard I find that provisions relating to refund of accumulated ITC on account of Inverted Tax Structure are governed under Section 54 (3) of the CGST Act, 2017 and determination of refund under above category is governed under Rule 89(5) of the CGST Rules, 2017 as under :

Rule 89 (5) of CGST Rules, 2017 as amended :

(5) In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:-

Maximum Refund Amount = {(Turnover of inverted rated supply of goods) x Net ITC ÷ Adjusted Total Turnover} - tax payable on such inverted rated supply of goods.

Explanation: - *For the purposes of this sub-rule, the expressions -*

(a) "Net ITC" shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and

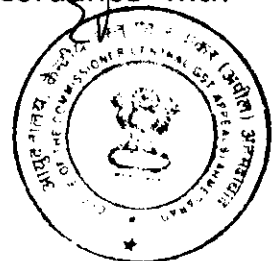
(b) "Adjusted Total turnover" and "relevant period" shall have the same meaning as assigned to them in sub-rule (4).

Rule 89 (4) (B) of CGST Rules, 2017 as amended

"Net ITC" means input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both;

(F) "Relevant period" means the period for which the claim has been filed.

4(viii). Concurrent reading of meaning assigned to Net ITC and relevant period leads to the expression that ITC means Input Tax Credit availed on inputs during the period for which claim has been filed other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) of both. Thus, use of word 'availed' indicate that total credit taken on inputs during the claim period is to be taken under head ITC for determination of refund amount for that period. In other words the meaning of net ITC and relevant date allows all eligible input credit taken during the claim period irrespective of date and period of invoices for arriving Net ITC and for determining refund amount. Therefore, so long as the credit is taken validly during the claim period in accordance with

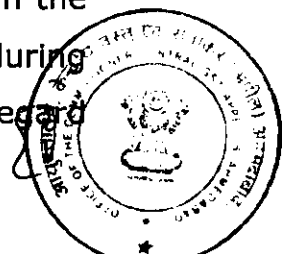


provisions of GST Law and found admissible it should be taken into account for determining refund for the claim period.

4(ix). Further, in this regard I refer to CBIC's Circular No. 125/44/2019 – GST dated 18.11.2019 wherein it was clarified that –

61. Presently, ITC is reflected in the electronic credit ledger on the basis of the amount of the ITC availed on self-declaration basis in FORM GSTR-3B for a particular tax period. It may happen that the goods purchased against a particular tax invoice issued in a particular month, say August 2018, may be declared in the FORM GSTR-3B filed for a subsequent month, say September 2018. This is inevitable in cases where the supplier raises an invoice, say in August, 2018, and the goods reach the recipient's premises in September, 2018. Since GST law mandates that ITC can be availed only after the goods have been received, the recipient can only avail the ITC on such goods in the FORM GSTR-3B filed for the month of September, 2018. However, it has been reported that tax authorities are excluding such invoices from the calculation of refund of unutilized ITC filed for the month of September, 2018. In this regard, it is clarified that "Net ITC" as defined in rule 89(4) of the CGST Rules means input tax credit availed on inputs and input services during the relevant period. Relevant period means the period for which the refund claim has been filed. Input tax credit can be said to have been "availed" when it is entered into the electronic credit ledger of the registered person. Under the current dispensation, this happens when the said taxable person files his/her monthly return in FORM GSTR-3B. Further, section 16(4) of the CGST Act stipulates that ITC may be claimed on or before the due date of filing of the return for the month of September following the financial year to which the invoice pertains or the date of filing of annual return, whichever is earlier. Therefore, the input tax credit of invoices issued in August, 2019, "availed" in September, 2019 cannot be excluded from the calculation of the refund amount for the month of September, 2019.

4(x). The above clarification mandate the view that ITC availed during claim period on the strength of invoices issued during past period cannot be excluded for calculation of refund amount for the claim period and should also be considered for determining refund amount. In the subject case, there is no dispute regarding admissibility of ITC availed during the claim period or ITC availed in question are not reflected in the GSTR 2A of the appellant and only dispute is that the credit taken during claim period include invoices issued during the prior period. In this regard



I find that as per meaning assigned to Net ITC and relevant date and also on the basis of clarification issued by CBIC vide Circular mentioned above there is no restriction under GST Law for availing ITC in a month on the strength of invoices issued during past period. Therefore, I do not find any justification in excluding ITC of past period Invoices on the reasoning given in the *impugned order* and hold that ITC of Invoices of Jan. & Feb. 2020 should be taken into account for arriving Net ITC and determining consequent refund.

Since the *Appellant* has now requested for refund of Rs.21,72,477/- only, as accepted the rejection of refund pertains to ITC of Input Services & ITC of goods received in May'2020 and also I find force in submission made by *Appellant* in connection with refund rejected on account of ITC availed of Invoices of Jan & Feb' 2020. Further, I find that the *Appellant* has also produced the copy of Certificate of CA as required under Rule 89 (2)(m). Accordingly, in view of foregoing I set aside the *impugned order* and allow the appeal.

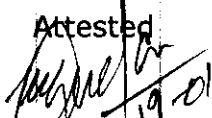
5. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

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


19/01/22
(Mihir Rayka)

Additional Commissioner (Appeals)

Date: 19.01.2022

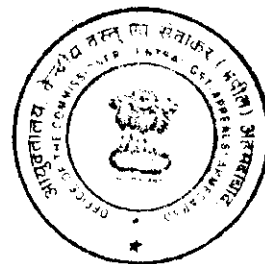
Attested

19-01-2022
(Diip Jadav)
Superintendent
Central Tax (Appeals)
Ahmedabad

By R.P.A.D.

To,
M/s. Bueno Salud Care (India) Private Limited,
K-20/21, Gallops Industrial Estate, Part - II,
Vasna Chacharwadi, Ta. Sanand, Ahmedabad - 382213

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-IV, Ahmedabad North.
5. The Additional Commissioner, Central Tax (System), Ahmedabad North.
- ✓ 6. Guard File.
7. P.A. File





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



By Regd. Post

DIN NO. :

SUBJECT: CORRIGENDUM TO ORDER-IN-APPEAL PASSED IN THE MATTER OF APPEAL FILED BY M/S SAMBHAV CORPORATION (LEGAL NAME - MEHUL PARASMAL PANANI) AGAINST ORDER NO. ZA241220091786J DATED 23.12.2020 ISSUED BY THE SUPERINTENDENT, CGST RANGE-V, DIVISION-VI (S G HIGHWAY WEST), AHMEDABAD NORTH COMMISSIONERATE

In the **Order-In-Appeal** passed by the undersigned, in the matter of appeal filed by M/s Sambhav Corporation (Legal Name - Mehul Parasmal Panani) against Order No. ZA241220091786J dated 23.12.2020 issued by the Superintendent, CGST, Range-V, Division-VI (S G Highway West), Ahmedabad North Commissionerate, following is wrongly mentioned due to typographical error:-

(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-ADC-88/2021-22 and 13.01.2022
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The above may be read as under:-

(घ)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-ADC-89/2021-22 and 13.01.2022
-----	--	---

Mihir Rayka)

Additional Commissioner (Appeals)

File No.- GAPPL/ADC/GSTP/2757/2021-Appeal/6044-50 Date: 09.02.2022

To,

M/s Sambhav Corporation (Legal Name - Mehul Parasmal Panani)
(GSTIN-24ANJPP0251E1ZD), 325, Mukhi Vas, Shilaj,
Daskroi, Ahmedabad, Gujarat-380058

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-VI (S G Highway West), Ahmedabad North.
5. The Superintendent, CGST & C.Ex., Range-V, Division-VI (S G Highway West), Ahmedabad North.
6. The Additional Commissioner, Central Tax (System), Ahmedabad North.
7. Guard File.
8. P.A. File