



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
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DIN NO. : 20220264SW00000222C1A

(क)	फाइल संख्या / File No.	GAPPL/ADC/GSTP/506/2021-APPEAL/615-20
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-ADC-92/2021-22 and 16.02.2022
(ग)	पारित किया गया / Passed By	श्री मिहिर रायका, अपर आयुक्त (अपील) Shri Mihir Rayka, Additional Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of issue	16.02.2022
(ङ)	Arising out of Order-In-Original No. GST-RFD-06 under F.No.DIV-VII/GST-refund/35/Mahaveer/2020-21/1242 dated 04.12.2020 issued by The Deputy Commissioner, CGST, Division-VII, Ahmedabad North Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Shree Mahavir Stationery Mart (GSTIN- 24ACBFS8393M1ZI) Address: 9-10, National Chambers, Besides City Gold Cinema, Ashram Road, Ahmedabad, Gujarat, 380014

(A)	इस आदेश (अपील) से व्यथित कोई व्यक्ति निम्नलिखित तरीके में उपयुक्त प्राधिकारी / प्राधिकरण के समक्ष अपील दाखल 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 :**

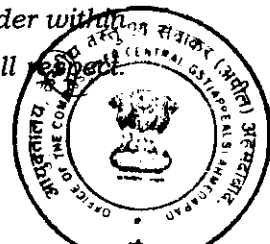
M/s. Shree Mahaveer Stationery Mart, 9-10, National Chamer, Beside City Gold Cinema, Ashram Road, Ahmedabad (hereinafter referred as '*appellant*') has filed the present appeal against Order issued in the form of GST-RFD-06 under F. No. Div.-VII/GST-refund/35/Mahaveer/2020-21 dated 04.12.2020 (hereinafter referred as '*impugned order*') passed by the Deputy Commissioner, CGST, Division - VII (S. G. Highway East), Ahmedabad North (hereinafter referred as '*adjudicating authority*').

2(i). The '*appellant*' is holding GST Registration having GSTIN No.24ACBFS8393M1ZI has filed the present appeal on 04.03.2021. The Appellant has mentioned the statement of facts in the appeal memo as under -

- *As per the Section 54(7) the proper officer shall issue the refund order within 60 days from the date of receipt of application complete in all respects. Appellant has submitted the documents on 18.12.2020 however, the adjudicating authority has issued the rejection order on 04.12.2020 in respect of application submitted on 06.10.2020.*
- *Adjudicating authority has observed that appellant has not made any submission till 06.10.2020, though original application was submitted on 18.03.2019.*
- *Deficiency Memo was issued on 02.12.2020 for application submitted on 06.10.2020 and rejection order issued on 04.12.2020 without giving an opportunity of being heard.*
- *Now question arise is how can officer reject an application within 2 days from the issue of deficiency memo.*

2(ii). Being aggrieved with the *impugned order* the *appellant* has preferred present appeal on the following grounds of appeal :

- *Application of Refund of IGST paid on supply made to SEZ unit was rejected by the officer without giving an opportunity of being heard.*
- *Appellant has supplied stationery items to various SEZ units during July 2017 to November 2017 with payment of duty.*
- *Filed GST RFD-01A on 09.10.2018 with ARN AB2411170224461 for the F.Y. 2017-18.*
- *As per Section 54(7) the proper officer shall issue the refund order within 60 days from the date of receipt of application completed in all respect.*



However, as per Circular No. 79/53/2018-GST dated 31.12.2018, due to non-availability of the complete electronic refund module, a work around was prescribed vide Circular No. 17/17/2017-GST dated 15.11.2017 and Circular No. 24/24/2017-GST dated 21.12.2017, wherein a taxpayer was required to file FORM GST RFD-01A on the common portal, generate the Application Reference Number (ARN), take print-outs of the same, and submit it physically in the office of the jurisdictional proper officer, along with all the supporting documents.

- As per above Circular, submitted all the relevant documents to the jurisdictional proper officer on 18.03.2019. A deficiency memo was issued on 25.04.2019 in this regard.
- Then after all the submission was done on hand delivery basis, but somehow department had not grant or reject our application, after many reminders, filed fresh application 06.10.2020. In this regard, a deficiency memo was issued on 02.12.2020. Before being complied the said deficiency memo, the adjudicating authority has rejected the refund claim vide impugned order dated 04.12.2020.
- The required documents in respect of deficiency memo dated 02.12.2020 were mailed by the CA on 10.12.2020 on div7905@gmail.com

Personal Hearing :

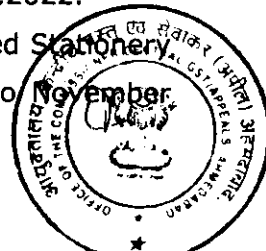
3. Personal Hearing in the matter was through virtual mode held on 13.01.2022. Shri Jekin Ashokkumar Sanghavi appeared on behalf of the 'Appellant' as authorized representative. During P.H. he has stated that he wants to submit some additional details. He was given 7 working days for the same.

Accordingly, the 'Appellant' has submitted the additional submission on 20.01.2022. Through additional submission the 'Appellant' has submitted the copy of CA Certificate. 'Appellant' has also submitted the copies of certificates issued by the SEZ units. As per said certificates the SEZ units have certified that they have not availed the Input Tax Credit of the IGST paid by the 'Appellant' on supplies to SEZ units.

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 given on 20.01.2022.

At the outset, I find that the appellant has supplied Stationery Items to SEZ units on payment of duty during July 2017 to November



2017. The appellant has accordingly filed refund claim of IGST of Rs.4,41,968/- on 09.10.2018 under ARN No. AB2411170224461 'on account of Supplies to SEZ Units (With payment of tax)'. In this regard, I have to refer CBIC Circular No. 17/17/2017 - GST dated 15.11.2017. The relevant para 2.3 of the Circular is reproduced as under :

2.3 The application for refund of integrated tax paid on zero-rated supply of goods to a Special Economic Zone developer or a Special Economic Zone unit or in case of zero-rated supply of services (that is, except the cases covered in paragraph 2.2 above and para 2.4 below) is required to be filed in FORM GST RFD-01A (as notified in the CGST Rules vide notification No. 55/2017 - Central Tax dated 15.11.2017) by the supplier on the common portal and a print out of the said form shall be submitted before the jurisdictional proper officer along with all necessary documentary evidences as applicable (as per the details in statement 2 or 4 of Annexure to FORM GST RFD - 01), within the time stipulated for filing of such refund under the CGST Act.

On going through above, I find that in the matter of IGST paid on supply of goods to a SEZ Unit/Developer, the refund application is required to be filed by supplier on common portal and a print out of the same is to be submitted to the Jurisdictional proper officer with all necessary documents.

4(ii). Further, I find it necessary to refer CBIC's Circular No. 79/53/2018-GST dated 31.12.2018. The relevant para 6 of the Circular is reproduced as under :

6. There are a large number of applications for refund in FORM GST RFD-01A which have been generated on the common portal but have not yet been physically received in the jurisdictional tax offices. With the implementation of electronic submission of refund application, as detailed in para 2 above, this problem is expected to reduce. However, for the applications (except those relating to refund of excess balance in the electronic cash ledger) which have been generated on the common portal before the issuance of this Circular and which have not yet been physically received in the jurisdictional offices (list of all applications pertaining to a particular jurisdictional office which have been generated on the common portal, if not already available, may be obtained from DG-Systems), the following guidelines are laid down:

a) All refund applications in which the amount claimed is less than the statutory limit of Rs. 1,000/- should be rejected and the amount re-credited to the electronic credit ledger of the applicant through the issuance of FORM GST RFD-01B.



b) *For all applications wherein an amount greater than Rs. 1000/- has been claimed, a list of applications which have not been received in the jurisdictional tax office within a period of 60 days starting from the date of generation of ARN may be compiled. A communication may be sent to all such claimants on their registered email ids, informing that the application needs to be physical submitted to the jurisdictional tax office within 15 days of the date of the email. The contact details and the address of the jurisdictional officer may also be provided in the said communication. The claimant may be further informed that if he/she fails to physically submit the application within 15 days of the date of the email, the application shall be summarily rejected and the debited amount, if any, shall be re-credited to the electronic credit ledger.*

In view of above, I find that in the matter of refund application in the FORM GST RFD-01A which have been generated on the common portal but have not been physically submitted in the jurisdictional tax offices, a communication is to be made to the claimant informing that application needs to be physically submitted. Further, if the claimant fails to physically submit the application within 15 days, the application shall be summarily rejected.

4(iii). In the present matter, the appellant is mainly contending that they have submitted all the relevant documents to the jurisdictional proper officer on 18.03.2019 and produced the copy of same. Further, the appellant has submitted that a deficiency memo was issued on 25.04.2019 in this regard. The appellant has produced the copy said letter dated 25.04.2019. On going through said letter I find that the appellant was informed about the deficiency of their refund application and it was asked to file fresh refund application after rectifying the deficiency.

In this regard, I find that the appellant has submitted in the grounds of appeal that *"then after all the submission was done on hand delivery basis, but somehow department had not grant or reject the refund claim"*. The appellant has further submitted that after many reminders they have filed fresh refund application on 06.10.2020. In this regard, I find that for the period from 25.04.2019 to 06.10.2020 the appellant has not produced any such documents / evidence in support of their claim.

Further, I find that the adjudicating authority has rejected the refund claim in the light of para 6 of CBIC's Circular No.79/53/2018-68 dated 31.12.2018.



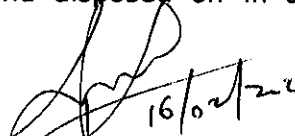
4(iv). In view of foregoing, I find that the appellant had filed the refund claim on common portal on 09.10.2018 and till 31.12.2018 the appellant fails to submit refund application with all required documents physically with the jurisdictional proper officer. Further, even after communication made to appellant vide letter dated 25.04.2019 the appellant fails to submit the refund application physically with all required documents. It is pertinent to mention here that as per CBIC's Circular dated 31.12.2018 the refund application were required to be submitted physically within 15 days from the date of e-mail i.e. date of communication. However, I find that in the present matter the appellant fails to produce any such documents that in response to department's communication dated 25.04.2019 they have submitted the refund application physically within stipulated time. I find that appellant has submitted the fresh refund application on 06.10.2020 i.e. after almost one and half year. It is pertinent to mention here that the refund claim pertains to period July 2017 to November 2017.

In view of above, I find that adjudicating authority has correctly rejected the refund claim considering the guidelines issued by the CBIC vide Circular dated 31.12.2018. Therefore, I do not find any infraction in the *impugned order*.

4(v). Accordingly, I reject the appeal filed by the appellant and upheld the order passed by the *adjudicating authority*.

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.


(Minir Rayka)

Additional Commissioner (Appeals)

Date: 16.02.2022

Attested
(Dilip Jadhav)
Superintendent
Central Tax (Appeals)
Ahmedabad



By R.P.A.D.

To,

M/s. Shree Mahaveer Stationery Mart,
9-10, National Chamer, Beside City Gold Cinema,
Ashram Road, Ahmedabad

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-VII (S G Highway East), Ahmedabad North.
5. The Additional Commissioner, Central Tax (System), Ahmedabad North.
6. Guard File.
7. P.A. File

