



सत्यमेव जयते

आयुक्तकाकार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeal Ahmedabad Commissionerate
जीएसटी भवन, राजस्व मार्ग, अम्बावाडी अहमदाबाद ३८००१५.
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By Regd. Post

DIN NO. 20221164SW0000717567

(क)	फाइल संख्या / File No.	GAPPL/ADC/GSTD/225/2022 / 5399 - 8H
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-ADC-112/2022-23 and 30.11.2022
(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	01.12.2022
(ङ)	Arising out of Order-In-Original No. ZX2412210316858 dated 27.12.2021 passed by The AC/DC, CGST, Division - II (Naroda Road), Ahmedabad North Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Padmaxi Textile (Legal Name - Nimeshbhai Indravadan Shah) (GSTIN-24AMWPS1827K1ZE) 1509, Kalyan Mills, Nawab Estate, Mahavirnagar, Ahmedabad, Gujarat-380025

(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 :

The following appeal has been filed by the Assistant Commissioner, CGST & C. Ex., Division-II, Naroda Road, Ahmedabad North (hereinafter referred to 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 Form -GST-RFD-06 Order No. ZX2412210316858, dated 27.12.2021 (hereinafter referred as 'impugned order') passed by the Assistant Commissioner, CGST & C. Ex., Division-II, Naroda Road, Ahmedabad-North (hereinafter referred to as 'adjudicating authority') in the case of M/s Padmaxi Textile (Legal Name-Nimeshbhai Indravadan Shah) (GSTIN-24AMWPS1827K1ZE), 1509, Kalyan Mills, Nawab Estate, Mahavirnagar, Ahmedabad, Gujarat-380025. (hereinafter referred to as *the 'respondent'*).

Appeal No. and date	Review Order No. and date	RFD-06 Order No. and date	Refund involved
GAPPL/ADC/GSTD/225/2022, dated 04.05.2022	02/2022-23, dated 26.04.2022	ZX2412210316858, dated 27.12.2021	41,174/-

2(i). Briefly stated the facts of the case are that the 'respondent' is holding GSTINo. 24AMWPS1827K1ZE had filed a refund claim of Rs. 41,174/- on 23.12.2021 on account of Inverted Tax Structure under Section 54 of CGST Act, 2017. The adjudicating authority has sanctioned the said refund claim vide the impugned order dated 27.12.2021.

2(ii). During the scrutiny of the said refund order the appellant i.e. *department* has observed that the refund claim filed by the respondent for the period April, 2018 [01.04.2018 to 30.04.2018] is time-barred as per Section 54 of CGST Act, 2017.

2(iii). Considering the above facts the department has filed the present appeal on 04.05.2022 and submitted that the impugned order is not proper and legal and accordingly, makes prayer for relief as under: -

- To set aside the impugned order;
- To pass an order directing to the original authority to recover the amount erroneously refunded to the claimant with interest;
- To pass any other order as deemed fit in the interest of justice.



3. Personal Hearing in the matter was held on 15.11.2022. No one appeared on behalf of the "appellant / department". Shri Sanket Kumar Patel, GST practitioner appeared, in person, on behalf of the 'Respondent' as authorized representative. During the P.H. he informed that they want to give additional submission / information, which was approved and 3 working days period was granted.

4. Accordingly, the Respondent has submitted the additional written submission on 21.11.2022, wherein they stated that:-

- the time between 15th March, 2020 to till date is excluded for computation of 2 year limitation as per Hon'ble Supreme Court Order.
- the refund rejection order came on 11.01.2022 not considered the Hon'ble Supreme Court's Order and clause 4(b) of CBIC Circular No.157/13/2021-GST.
- Also submitted copies of (i) Notification No. 13/2022-Central tax, dated 05.07.2022 & also CBIC circular No. 157/13/2021-GST dated 20.07.2021.

The Respondent prayed to quash the refund rejection appeal filed by the appellant department.

Discussion and Findings:

5(i). I have carefully gone through the facts of the case available on records, submissions made by the 'Respondent' in the Appeal Memorandum. I find that the 'Respondent' had preferred the refund application on account of Inverted Tax Structure as per Section 54(3) of the CGST Act, 2017. The adjudicating authority has sanctioned the said refund claim under impugned order dated 27.12.2021. During scrutiny of the said refund order the department has observed that the refund claimed by the respondent for the period April- 2018 is time-barred as per Section 54 of CGST Act, 2017.

5(ii). I observed that in the instant case the "impugned order" was issued on 27.12.2021 and appeal is filed on 04.05.2021. As per Section 107(2) of the CGST Act, 2017, the present appeal is considered to be filed in time.

5(iii). In view of foregoing facts, I find that the appellant has filed the present appeal for the reason that the above refund claim filed by the respondent was considered as time barred as per Section 54 of CGST Act, 2017.

5(iv). In this regard, I have gone through the Notification No. 13/2022-Central Tax dated 05.07.2022 issued by the CBIC. The relevant Para is reproduced as under:



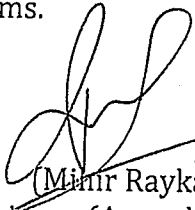
(iii) excludes the period from the 1st day of March, 2020 to the 28th day of February, 2022 for computation of period of limitation for filing refund application under section 54 or section 55 of the said Act.

2. This notification shall be deemed to have come into force with effect from the 1st day of March, 2020.

In view of above, I find that in the present matter the refund claim for the period April, 2018 was filed on 23.12.2021. Considering the limitation period it should have been filed within two years from the relevant date. However, in light of the Notification No.13/2022-Central Tax dated 05.07.2022, I hold that the entire claim for the period April, 2018 is not hit by time limitation as prescribed under Section 54 of the CGST Act, 2017. Hence, the appeal filed by the appellant has been rejected.

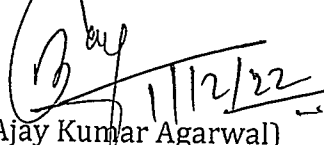
6. In view of above discussions, I find the *impugned order* passed by the *adjudicating authority* is legal and proper. Accordingly, I reject the appeal of the "Appellant" and uphold the impugned order.

7. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।
The appeals filed by the *appellant* stands disposed of in above terms.


(Minir Rayka)
Additional Commissioner (Appeals)

Date: 30.11.2022

Attested


(Ajay Kumar Agarwal)
Superintendent (Appeals)
Central Tax,
Ahmedabad.



F.No. : GAPPL/ADC/GSTD/225 /2022-APPEAL

By R.P.A.D.

To,

Appellant

The Deputy/ Assistant Commissioner,
CGST & C.Ex., Division- II (Naroda Road),
Ahmedabad-North Commissionerate.

Respondent

M/s Padmaxi Textile,
(Legal Name - Nimeshbhai Indravadan Shah)
(GSTIN-24AMWPS1827K1ZE)
1509, Kalyan Mills, Nawab Estate,
Mahavirnagar, Ahmedabad, Gujarat-380025

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 Additional Commissioner, Central Tax (System), Ahmedabad- North.
5. The Deputy/Assistant Commissioner, CGST & C.Ex, Division-II (Naroda Road), Ahmedabad-North.

✓ 6. Guard File.

7. P.A. File



