



सत्यमेव जयते

आयुक्त (अपील) का कार्यालय, Office of the Commissioner (Appeal),

केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद

Central GST, Appeal Commissionerate, Ahmedabad

जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015

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DIN- 20221264SW000000AF94

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/2434/2022 -APPEAL / 6M76 - 61

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-002-APP-ADC-120/2022-23**
दिनांक Date : **23-12-2022** जारी करने की तारीख Date of Issue : **23-12-2022**

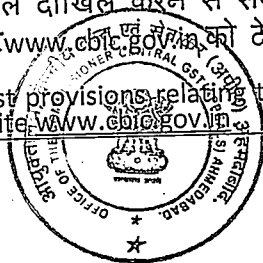
श्री मिहिर रायका_अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. **ZR2406220046408 DT. 03.06.2022** issued by
Assistant Commissioner, CGST & CX, Division-VI, Ahmedabad North

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
**M/s. Hanover International Support Services Pvt. Ltd., 2nd Floor, 201 to 208, Binori
Bsquare-1, Opp. Hathisingni Vadi, Iscon-Ambli Raod, Ahmedabad-380058**

(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

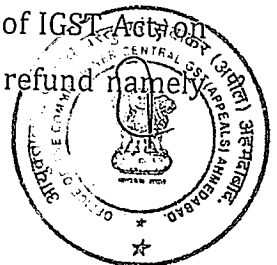
BRIEF FACTS OF THE CASE :

M/s Hanover International Support Services Pvt. Ltd., 2nd Floor, 201 to 208, Binori Bsquare-1, Opp. Hathisingni Vadi, Iscon-Ambli Road, Ahmedabad-380058 (hereinafter referred as the 'Appellant') has filed the present appeal against the Order No. ZR2406220046408, dated 03.06.2022 passed in the Form-GST-RFD-06 (hereinafter referred as 'impugned order') rejecting partial refund claim of Rs. 4,62,965/-, issued by the Assistant Commissioner, CGST, Division-VI [S.G.Highway West], Ahmedabad-North Commissionerate (hereinafter referred as "the adjudicating authority").

2. Briefly stated the facts of the case are that the 'Appellant' is holding GST No.24AAFCH2720L1ZQ has filed the present appeal on 29.08.2022. The 'Appellant' in the appeal memorandum informed that they had filed refund application on account of exporting service on payment of IGST of Rs.9,26,559/- for the month of March, 2021. In response to said refund claim a show cause notice dated 24.05.2022 in Form GST-RFD-08 was issued to the 'Appellant' proposing to reject inadmissible claim of Rs.4,62,965/- on account of mis-match of ITC. In the remark section of the RFD-08 it has been mentioned that - *"In pursuance of circular 125/44/2019 and circular 135-GST Refunds the ITC for relevant period of claim as per GSTR-3B and Annexure-B is less than claimed amount. Hence, RFD-08 is being issued."* The appellant, in their reply to the notice, submitted that they have availed ITC of Rs.4,63,494/- in the month of March,2021 and there was opening balance of Rs.30,45,953/- and hence there is no mis-match. However, the adjudicating authority has rejected the refund claim of Rs.4,62,964/- vide the impugned order. A remark is mentioned in the impugned order as *"RFD-06 is being issued after deducting inadmissible claim as ITC is of period other than relevant period of claim."*

3. Being aggrieved, the *appellant* has filed the present appeal wherein they stated that -

- The adjudicating authority erred in rejecting the refund of Rs.4,62,965/- related to IGST paid on exports as claimed as refund under Section 16 of IGST Act, 2017 on the ground that underlying ITC is not related to the period of refund namely March, 2021.



- The adjudicating authority ought to have appreciated that refund claimed by the appellant is under Section 16 of IGST Act pertaining to IGST paid on exports of service and not refund of ITC on zero rated export under LUT.
- The adjudicating authority ought to have appreciated that the appellant has made compliance to conditions prescribed as per Circular No.125 of CBIC.

PERSONAL HEARING :

4. Personal Hearing in the matter was held on 16.12.2022 wherein Shri Naman Desai, Chartered Accountant, appeared, on virtual mode, on behalf of the 'Appellant' as authorized representative. During the P.H. he has reiterated the submissions made till date and informed that they want to give additional submission/information, which was approved and 3 working days period was granted.

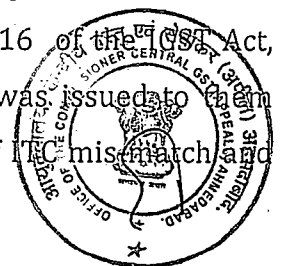
5. Accordingly, the appellant has submitted the additional written submission on 20.12.2022, wherein they stated that the Assistant Commissioner, CGST, Division-VI, S.G.Highway West, Ahmedabad, in their case for Orders issued in form RFD-06 for the preceding period January, 2021 & succeeding period April, 2021, where refund claim with similar facts have been granted . Similar refund for succeeding periods i.e. May, 2021 , July, 2021 & December, 2021 have also been adjudicated and approved by the department. Hence, in view of the above favorable orders having similar facts appeal may be allowed.

DISCUSSION AND FINDINGS:

6. I have carefully gone through the facts of the case, documents available on records, submissions made by the 'Appellant' in the Appeals Memorandum and during hearing.

7. At the outset, I observed that in the instant case the "impugned order" is of dated 03.06.2022 and appeal is filed on 29.08.2022. As per Section 107(1) of the CGST Act, 2017, the present appeal is considered to be filed in time.

8. Further, I find that the 'Appellant' had preferred the refund application for refund of IGST of Rs.9,26,559/- paid on Export of Services as per Section 16 of the IGST Act, 2017. In response to said refund application Show Cause Notice was issued to them proposing rejection of an amount of Rs.4,62,965/- on the ground of ITC mismatch and



without considering the submission made by the appellant in this regard, he has sanctioned the refund claim after deducting the said amount.

9. In this regard, I find that the appellant had filed refund of IGST paid on export of service on payment of IGST under Section 16 of IGST Act, 2017 and there is no scope of restricting the refund claim on the basis of ITC availed. Unlike claim for refund of ITC used in export of goods or service without payment of tax, there is no specific provision either in GST Act or GST Rules which provided for restricting such refund of IGST paid on export of goods or services. It is not in dispute that the appellant had paid the IGST on the services and the same was exported. In absence of any such findings about non-payment or non-exporting or non-realization of sale proceeds, the impugned order rejecting refund on account of mis-match of ITC for the relevant period is not sustainable.

10. In view of above discussions, the impugned order passed by the adjudicating authority is set aside for being not legal and proper and accordingly, I allow the appeal of the "Appellant" and direct the adjudicating authority to sanction the refund as permissible under law. The 'Appellant' is also directed to submit all the relevant documents/submission before the adjudicating authority.

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

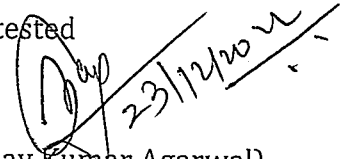
The appeals filed by the *appellant* stands disposed of in above terms.


(Mihir Rayka)

Additional Commissioner (Appeals)

Date: 23/12/2022

Attested


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



F.No.: GAPPL/ADC/GSTP/2434/2022-APPEAL

By R.P.A.D.

To,
M/s Hanover International Support Services Pvt. Ltd.,
2nd Floor, 201 to 208, Binori Bsquare-1,
Opp. Hathisingni Vadi,
Iscon-Ambli Road,
Ahmedabad -380 058

Copy to:

1. The Principal Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner [Appeals], CGST & C. Ex., Ahmedabad.
3. The Commissioner, CGST & C. Ex., Ahmedabad-North.
4. The Additional Commissioner, Central Tax (System), Ahmedabad- North.
5. The Assistant Commissioner, CGST & C.Ex., Division-VI [S.G.Highway West],
Ahmedabad-North.
6. Guard File.
7. P.A. File



