



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, अम्बावाडी अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015

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DIN- 20221264SW0000222EC7

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/3181 to 3184/2022 -APPEAL / ६४६९ - १५

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-002-APP-ADC-122 to 125/2022-23**  
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. **ZF2409220160156 DT. 13.09.2022,**  
**ZG2409220160034 DT. 13.09.2022, ZC2410220155202 DT. 17.10.2022 &**  
**ZA2409220760790 DT. 13.09.2022** issued by Assistant Commissioner, CGST & CX,  
Division-VII, Ahmedabad North

ध अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent  
**M/s. Rakesh Chemicals, 52, Shayona Estate, Opp. Meldi Estate,**  
**Prasang Party Plot Road, Gota, Ahmedabad**

(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) <u>Full amount of Tax, Interest, Fine, Fee and Penalty</u> arising from the impugned order, as is admitted/accepted by the appellant, and (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.
(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 में संबंधित व्यापक, विस्तृत और नवीनतम प्रावधानों के लिए, अपीलार्थी विभागीय वेबसाइट <a href="http://www.epic.gov.in">www.epic.gov.in</a> 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 <a href="http://www.cbic.gov.in">www.cbic.gov.in</a>

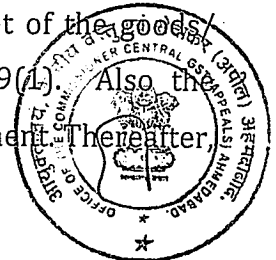
**ORDER-IN-APPEAL**

**Brief Facts of the Case :**

M/s. Rakesh Chemicals, 52, Shayona Estate, Opp. Meldi Estate, Prasang Party Plot Road, Gota, Ahmedabad-382481, (hereinafter referred as 'Appellant') has filed the present appeals against the Orders as tabulated below (hereinafter referred as 'impugned orders') rejecting the part of the refund claims for the amount as shown against the Orders, passed by the Assistant Commissioner, CGST & C. Ex., Division-VII [S.G.Highway-East], Ahmedabad-North. (hereinafter referred as the 'adjudicating authority').

Sr. No.	Appeal No. / date	Order No. and date	Refund claimed. [In Rs.]	Refund sanctioned [In Rs.]	Refund rejected. [In Rs.]
1.	GAPPL/ADC/GSTP/3181 /2022, dated 07.11.2022.	ZF2409220160156, dated 13.09.2022.	8,30,648/-	6,80,681/-	1,49,967/-
2.	GAPPL/ADC/GSTP/3182 /2022, dated 07.11.2022.	ZG2409220160034, dated 13.09.2022.	8,27,959/-	2,49,910/-	5,78,049/-
3.	GAPPL/ADC/GSTP/3183 /2022, dated 07.11.2022.	ZC2410220155202, dated 17.10.2022.	6,48,068/-	5,92,095/-	55,972/-
4.	GAPPL/ADC/GSTP/3184 /2022, dated 07.11.2022.	ZA2409220760790, dated 13.09.2022.	9,21,532/-	8,01,784/-	1,19,748/-

2(i). Briefly stated the facts of the case are that the 'Appellant' is holding GST Registration GSTIN No. 24AANFR2339E1ZA and has filed all the above appeals on 07.11.2022. The 'Appellant' had filed the refund applications for refund claims on account of supplies to SEZ unit/SEZ developer (with payment of tax) for the amount as mentioned in the above table. The adjudicating authority has issued notice to show cause mentioning that - "while scrutinizing the documents submitted, it is observed that out of all the SEZ invoices declared by the claimant in the application many invoices are not visible on the SEZ online portal. Claimant is requested to clarify the same & reply is to be submitted within 15 days of the issuance of the notice.". In response, the appellant has submitted the replies to the notices. The appellant replied that they had provided the Endorsement(s) from the specified officer of the SEZ regarding receipt of the goods/ services for authorized operations under second proviso to Rule 89(1). Also the website/ portal of the SEZ are the internal issue of the Customs Department. Thereafter,



the adjudicating authority has rejected the part of refund claims vide impugned orders in Form GST-RFD-06 mainly on the ground that the IGST paid on the several part of the Zero Rated Supplies shown in GSTR-3B could not be correlated to the supplies made to the SEZ Unit.

2(ii). Being aggrieved with the impugned orders the appellant has filed the present appeals on 07.11.2022 mainly on the following grounds: -

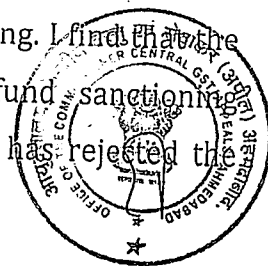
- The refund applications were duly acknowledged without deficiency.
- SCN issued stating that many invoices are not visible on SEZ portal.
- SCNs, in some cases, have not been issued in prescribed format without dated & without signed. Same should be in RFD-08 alongwith the date of hearing and timing. Thus, the authority has violated the principle of natural justice.
- They have filed the reply to the SCN alongwith all the supporting documents which are required as per Circular No.125/44/2019-GST, dated 18.11.2019.
- The said reply has not been considered by the authority and misinterpreted the guidelines of Instruction No.03/2022, dated 14.06.2022 [ Para 2.11(B)(m)] and straight away passed the rejection order stating that the SEZ Invoices are not visible on the SEZ portal.
- The SEZ Invoices are being uploaded by the respective SEZ Customs officer and appellant has no role in the same.
- The learned officer should have appreciated the fact that the online cross checking of SEZ Invoices on SEZ portal is an additional requirement over and above the basic documents as per Circular.

**Personal Hearing:**

3. Personal Hearing in the matter was held on 20.12.2022, wherein Shri Ronak Jain, Advocate appeared in person on behalf of the 'Appellant' as authorized representative. During Personal Hearing he has reiterated the grounds mentioned in the appeal memorandums and nothing more to add in their written submission till date.

**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 Appeals & during the hearing. I find that the 'Appellant' had preferred the refund applications before the refund sanctioning authority. The refund sanctioning authority [Adjudicating Authority] has rejected the



part of refund claims vide impugned orders in Form GST-RFD-06 mainly on the ground that IGST paid on the several part of the Zero Rated Supplies shown in GSTR-3B could not be correlated to the supplies made to the SEZ Unit. Accordingly, appellant has preferred the present appeals.

4(ii). At the foremost, I observed that in the instant case the "impugned orders" are of dated 13.09.2022/17.10.2022 and appeals are filed on 07.11.2022. As per Section 107(1) of the CGST Act, 2017, all the appeals are considered to be filed in time.

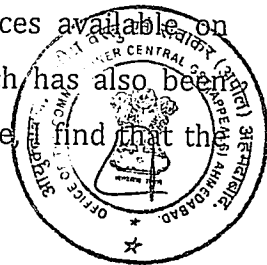
4(iii). I find that in the present appeals, the appellant in the ground of appeals has mainly stated that the Adjudicating Authority has erred both on facts and in law by passing the orders rejecting part of the refund claims. He also contended that the Adjudicating Authority has passed the order of rejecting part of the refund without giving them an opportunity of hearing to appellant. Thus, principles of natural justice have been violated.

4(iv). As regards to the appellant's submission that the impugned orders are passed on the basis of some notices not issued in prescribed format RFD-08 and also passed without giving an opportunity of hearing to them, I referred the Rule 92(3) of the CGST Rules, 2017, same is reproduced as under:-

*(3) Where the proper officer is satisfied, for reasons to be recorded in writing, that the whole or any part of the amount claimed as refund is not admissible or is not payable to the applicant, he shall issue a notice in **FORM GST RFD-08** to the applicant, requiring him to furnish a reply in **FORM GST RFD-09** within a period of fifteen days of the receipt of such notice and after considering the reply, make an order in **FORM GST RFD-06** sanctioning the amount of refund in whole or part, or rejecting the said refund claim and the said order shall be made available to the applicant electronically and the provisions of sub-rule (1) shall, mutatis mutandis, apply to the extent refund is allowed:*

*Provided that no application for refund shall be rejected without giving the applicant an opportunity of being heard.*

In view of above legal provisions, "no application for refund shall be rejected without giving the applicant an opportunity of being heard". In the present matter, on going through the impugned orders, I find that there is no evidences available on records that Personal Hearings in the matters were conducted which has also been pointed out by the appellant in their appeal memorandums. Therefore, I find that the



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adjudicating authority has violated the principle of natural justice in passing the impugned order. Further, I am of the view that orders should have been passed by giving proper opportunity of personal hearing in the matters to the 'Appellant' and detailing factors leading to rejection of part of refund claims should have been discussed supported by the relevant law. Else such order would not be sustainable in the eyes of law.

5. Considering the above facts, the *adjudicating authority* is hereby directed to process the refund applications of the *appellant* by following the principle of natural justice. The 'Appellant' is also directed to submit all the relevant documents/submission before the *adjudicating authority*.

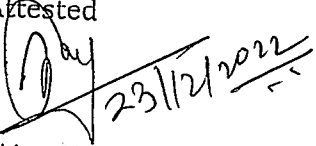
6. In view of above discussions, the *impugned orders* passed by the *adjudicating authority* are set aside for being not legal and proper and accordingly, I allow the appeals of the "Appellant" without going into merit of all other aspects, which are required to be complied by the claimant in terms of Section 54 of the CGST Act, 2017 or Rule 89 of the CGST Rules, 2017 or any other law for the time being in force.

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.

  
(Mihir Rayka)  
Additional Commissioner (Appeals)

Date: 23.12.2022

Attested

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



By R.P.A.D.

To,  
M/s. Rakesh Chemicals,  
52, Shayona Estate,  
Opp. Meldi Estate,  
Prasang Party Plot Road,  
Gota, Ahmedabad - 382481.

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-VII , S.G.Highway-East, Ahmedabad North.
- ✓ 6. Guard File.
7. P.A. File

