



सत्यमेव जयते

आयुक्त का कार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeals Ahmedabad Commissionerate
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(क)	फाइल संख्या / File No.	GAPPL/ADC/GSTP/573/2022 / 8318 - 24
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-ADC-154/2022-23 and 14.02.2023
(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	15.02.2023
(ङ)	Arising out of Order-In-Original No. ZP2412210133124 dated 11.11.2021 issued by The Assistant Commissioner, CGST, Division - IV, Ahmedabad North Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Transformers & Rectifiers (India) Ltd. GSTIN-24AACCT8243P1ZV) Survery No. 427 P/3-4, & 431 P/1-2, Sarkhej-Bavla Highway, Village - Moraiya, Taluka - 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

M/s. Transformers & Rectifiers (India) Limited, Survey No. 427 P/3-4, & 431 P/1-2, Sarkhej-Bavla Highway, Village : Moraiya, Tal. Sanand, Dist. Ahmedabad, Gujarat : 382 213 (hereinafter referred to as the "appellant") has filed the following present appeal on 8.2.2022 against Refund Rejection Order No. ZP2412210133124 dated 11.11.2021 (hereinafter referred to as the "impugned refund order") amounting to Rs. 18,71,942/- passed by the Assistant Commissioner, CGST, Division - IV, Ahmedabad North Commissionerate (hereinafter referred to as the "adjudicating authority") rejecting refund claim filed by the appellant.

2. Brief facts of the case in the present appeal is that the appellant registered under GSTIN 24AACCT8243P1ZV, has filed refund claim dated 16.09.2021 for Rs. 18,71,942/- under the category "Any other" against interest paid on GST paid by ITC based on Circular F No. CBEC-20/01/08/2019-GST dated 18.09.2020 for amendment of Section 50 of CGST Act, 2017 retrospectively with effect from 01.07.2017. The appellant was issued Show Cause Notice (SCN) on dated 13.10.2021 proposing rejection of refund on the following grounds:

"1. On verification of documents, it is observed that the claimant has filed the refund claim of Rs.18,71,942/- vide ARN No. AA2409210545854 on dated 16.09.2021 towards the interest paid against the liability i.e delayed payment of the tax provided under Section 50 of CGST Act, 2017. The subject refund claim filed under the category of "ANY OTHER REASON" in respect of the amendment made in Section 50 on the basis of Press Release issued by the GST Council in its 31st meeting held on 22.12.2018 and relied on letter issued by the Principal Commissioner, GST Policy Wing, CBIC vide F.No. CBEC-20/01/08/2019-GST dated 18.09.2020.

The amendment made in Section 50 regarding charging interest on the net cash tax liability is decision of GST council and in this regard, the board vide Para 3(b) of the aforesaid letter dated 18.09.2020 has clarified that the issue relating to the amendment suggested in Section 50 should be kept in abeyance till the retrospective amendment in Section 50 of the CGST Act is carried out.

2. Further, as per Section 54(1), an application for refund may be filed before the expiry of two years from the relevant date in such form and manner as may be prescribed. Further, as per Section 54(14)(2)(h) of the CGST Act, 2017, relevant date means payment of Tax [since present claim does not fall under any category as prescribed from (a) to (g) of Section 54(14)(2)]. In the present case, interest of Rs. 18,71,942/- was paid vide CPIN 19022400382362 dated 20.02.2019. Since the extant refund claim was filed on 16.09.2021 i.e. after the lapse of period of 2 years the same is time barred and thus liable for rejection.



3. Refund claim under reference was filed under the category ANY OTHER (RE-CREDIT THE REFUND FOR INTEREST PAID UNDER RETROSPECTIVE AMENDMENT IN SECTION-50). As per para 3(a) of clarification issued vide F. No. CBEC-20/01/08/2019-GST dated 18.09.2020 with reference to amendment of Section 50, "For the period 01.07.2017 to 31.08.2020, field formations in your jurisdiction may be instructed to recover interest only on the Net Cash Tax liability (i.e that portion of tax that has been paid by debiting the electronic cash ledger or is payable through cash ledger)"

In view of the above, it appears that the board has clarified to recover the interest on the net cash tax liability but does not clarify about the interest paid on other that the net cash tax liability should be refunded. So, in absence of the legal framework by the CBIC Board, the subject refund claim appears inadmissible and liable for rejection.

4. Further, above clarification is confined to the amendment of Section 50 of CGST Act, whereas, the refund is governed under Section 54 and no amendment to that effect has been made in section 54. Therefore, on this account also, the refund is liable for rejection.

5. In addition to the above, claimant is requested to (i) mention the relevant month for which was tax was meant and was paid in the month of February 2019 (ii) state the circumstances under which the claimant came to know that such liability was left to be fulfilled, (iii) state whether such observation made by the Audit / Preventive Section / other agency or otherwise."

Further, the appellant was given opportunity to be heard in person on 25.10.2021 but no one appeared for the personal hearing. The appellant was given opportunity to furnish their reply within 15 days to the Show Cause Notice in the form of GST RFD-09 under Rule 92(3) of CGST Rules, 2017, but the applicant has not uploaded GST RFD-09 on due date and replied lately on 02.11.2021. For sake of the natural justice, the reply of the SCN has been considered. Subsequently, the Order-In-Original (OIO), passed by the adjudicating authority by rejecting the entire refund claim of Rs. 18,71,942/- on the grounds that

(i) as per the provisions of Section 54(1) of CGST Act, 2017, any refund claim should be filed before the expiry of two years from the relevant date, as the relevant date is the date of payment of tax in the subject refund and the payment of the tax i.e Interest made on 20.02.2019 i.e after the expiry of two years time provided under Section 54(1) of CGST Act, 2017 and hence time barred.

(ii) Further, as per the amendment in Section 50 of the CGST Act, 2017 made vide Notification No. 16/2021-Central Tax dated 01.06.2021, it is clarified to recover the interest on Net Cash Tax liability under Section 50 of the CGST Act, 2017 but there



is no any clarification for the CBIC board with regards to refund of such payment of interest and the refund is governed under Section 54 of the CGST Act, read with Rule 89 of the CGST Rules, 2017 and therefore in the absence of such clarification from the competent authority, the subject refund claim is not admissible and liable for rejection.

3. Being aggrieved with the impugned order, the appellant preferred present appeal on 08.02.2022 on the following grounds:

- i. The impugned order deserves to be quashed and set aside because it is passed without appreciating the provisions of law and decided issue at hand on a totally wrong interpretation of the effect and scope of the retrospective amendment of the provision.
- ii. The adjudicating authority has no jurisdiction to give a go-by to instructions No. CBEC-20/01/08/2019-GST dated 18.09.2020, which clearly instructed the revenue officers to recover interest only on the net cash tax liability (i.e that portion of the tax that has been paid by debiting the electronic cash ledger or is payable through cash ledger) for the period 1.07.2017 to 31.08.2020. Once the Board clarified that interest was recoverable only on the net cash tax liability, any amount paid on a gross tax liability would automatically become refundable because the said recovery or payment was without authority of law and therefore the amount which was not payable, but paid, cannot be retained by the Revenue. The revenue has no authority to retain the said amount, hence the impugned refund order is in violation of Article 265 of the Constitution of India, and therefore, not tenable and illegal.
- iii. That the appellant filed refund claim purely on the basis of administrative instructions issued by GST policy Wing with a retrospective amendment to Section 50 the CGST Act, 2017 and since no restrictions on claiming of refund is mentioned, denial of refund on any ground is not tenable and contrary to the basic scheme of the statute.
- iv. That the provisions of Section 112 of the Finance Act, 2021 have come into force with effect from 1st June 2021 vide Notification No. 16/2021-Central Tax dated 1.6.2021. The tax paid through Electronic Credit Ledger is not liable to interest as per Section 50 of the Act and this amendment to Sec. 50 has been made effective retrospectively with effect from 1.7.2017. Hence, any interest paid in excess interest on tax portion discharged through electronic credit ledger is eligible for refund irrespective of whether the claim was filed within two years from the date of payment or otherwise.



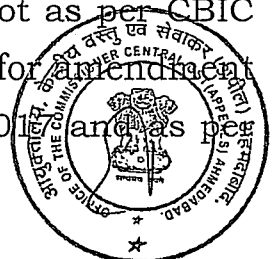
- v. That the adjudicating authority had erred in denying the benefit of the refund on the ground of time barred, when the time limit prescribed under a provision of a statute would not be applicable in the case when the cause of action arose from a date when the amendment was made with retrospective effect. The amount become payable from the date when the Union has issued a notification and subsequent clarification. The present claim filed immediately after the amendment was made by the Union, therefore, the claim cannot be denied on the ground of time barred. The appellant contended that the claim was filed as per the settled principle of law by the various H'ble High Courts. It is a case where the interest was collected without any authority of law and such collection of interest was not illegal or unlawful or irregularly collected under the CGST Act, 2017, but an interest collected without authority of law. Appellant cannot be bound by the limitation prescribed in the CGST Act, 2017 for claiming excess interest paid or collected illegally.
- vi. That the authority did not consider the request to grant re-credit of the amount, which become refundable by a subsequent event.
- vii. The impugned order is even otherwise incorrect, erroneous, without any authority in law and jurisdiction, and therefore, it deserves to be set aside.

PERSONAL HEARING :

4. Personal hearing in the matter were fixed by the appellate authority on 17.10.2022, 16.11.2022 and 22.11.2022, no-one appeared for the personal hearing on behalf of the appellant in the present appeal. Therefore, issue is to be decided on the available records and submissions made along-with appeal memorandum.

DISCUSSION AND FINDINGS:

5. I have gone through the facts of the case, written submissions made by the 'appellant' along-with appeal memorandum and available records. I find that the main issue to be decided in the instant case are (i) whether the refund claim has been filed within the time-limit as per Section 54 of CGST Act, 2017 and (ii) whether the refund application filed by the appellant on account of interest paid on GST paid by ITC is refunded or not as per CBIC Circular F. No. CBEC-20/01/08/2019-GST dated 18.09.2020 for amendment in Section 50 of CGST Act, 2017 retrospectively w.e.f 01.07.2018 and as per the provisions under the CGST Act, 2017.



6. From the available records, I find that the appellant has filed the refund claim in the form of GST RFD-01 amounting to Rs. 18,71,942/- on account of interest paid on GST paid by Input Tax Credit (ITC) vide ARN : AA2409210545854 dated 16.09.2021, based on Circular No. CBEC-20/01/08/2019-GST on dated 18.09.20220 for amendment of Section 50 of CGST Act, 2017 retrospectively with effect from 01.07.2017. Further, I would like to refer to the Section 54 of the CGST Act, 2017, which are reproduced, below:

"Section 54. Refund of tax -

(1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed:

Provided that a registered person, claiming refund of any balance in the electronic cash ledger in accordance with the provisions of sub-section (6) of section 49, may claim such refund in ¹[such form and] manner as may be prescribed.

(2) A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947), Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of ¹[two years] from the last day of the quarter in which such supply was received.

(3) Subject to the provisions of sub-section (10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period:

Provided that no refund of unutilised input tax credit shall be allowed in cases other than-

(i) zero rated supplies made without payment of tax;

(ii) where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council:

Provided further that no refund of unutilised input tax credit shall be allowed in cases where the goods exported out of India are subjected to export duty:

Provided also that no refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

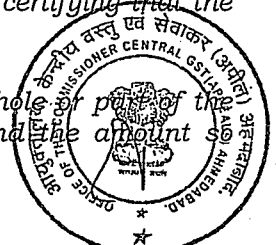
(4) The application shall be accompanied by-

(a) such documentary evidence as may be prescribed to establish that a refund is due to the applicant; and

(b) such documentary or other evidence (including the documents referred to in section 33) as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person:

Provided that where the amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

(5) If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in section 57.



(6) Notwithstanding anything contained in sub-section (5), the proper officer may, in the case of any claim for refund on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council, refund on a provisional basis, ninety per cent. of the total amount so claimed, excluding the amount of input tax credit provisionally accepted, in such manner and subject to such conditions, limitations and safeguards as may be prescribed and thereafter make an order under sub-section (5) for final settlement of the refund claim after due verification of documents furnished by the applicant.

(7) The proper officer shall issue the order under sub-section (5) within sixty days from the date of receipt of application complete in all respects.

(8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to-

(a) refund of tax paid on ²[export] of goods or services or both or on inputs or input services used in making such ¹[exports];

(b) refund of unutilised input tax credit under sub-section (3);

(c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;

(d) refund of tax in pursuance of section 77;

(e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or

(f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

³[(8A) The Government may disburse the refund of the State tax in such manner as may be prescribed.]

(9) Notwithstanding anything to the contrary contained in any judgment, decree, order or direction of the Appellate Tribunal or any court or in any other provisions of this Act or the rules made thereunder or in any other law for the time being in force, no refund shall be made except in accordance with the provisions of sub-section (8).

(10) Where any refund is due ⁴[***] to a registered person who has defaulted in furnishing any return or who is required to pay any tax, interest or penalty, which has not been stayed by any court, Tribunal or Appellate Authority by the specified date, the proper officer may-

(a) withhold payment of refund due until the said person has furnished the return or paid the tax, interest or penalty, as the case may be;

(b) deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law .

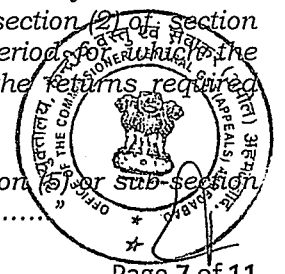
Explanation.-For the purposes of this sub-section, the expression "specified date" shall mean the last date for filing an appeal under this Act.

(11) Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.

(12) Where a refund is withheld under sub-section (11), the taxable person shall, notwithstanding anything contained in section 56, be entitled to interest at such rate not exceeding six per cent. as may be notified on the recommendations of the Council, if as a result of the appeal or further proceedings he becomes entitled to refund.

(13) Notwithstanding anything to the contrary contained in this section, the amount of advance tax deposited by a casual taxable person or a non-resident taxable person under sub-section (2) of section 27, shall not be refunded unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39.

(14) Notwithstanding anything contained in this section, no refund under subsection (6) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees.



6.1 As per Section 54(1) of the CGST Act, 2017 "Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before **the expiry of two years from the relevant date** in such form and manner as may be prescribed.

6.2 Further, as per Section 54(14) (2) –

(2) "relevant date" means –

(a) in the case of goods exported out of India where a refund of tax paid is available in respect of goods themselves or, as the case may be, the inputs or input services used in such goods,-

(i) if the goods are exported by sea or air, the date on which the ship or the aircraft in which such goods are loaded, leaves India; or

(ii) if the goods are exported by land, the date on which such goods pass the frontier; or

(iii) if the goods are exported by post, the date of dispatch of goods by the Post Office concerned to a place outside India;

(b) in the case of supply of goods regarded as deemed exports where a refund of tax paid is available in respect of the goods, the date on which the return relating to such deemed exports is furnished;

⁵[(ba) in case of zero-rated supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit where a refund of tax paid is available in respect of such supplies themselves, or as the case may be, the inputs or input services used in such supplies, the due date for furnishing of return under section 39 in respect of such supplies;]

(c) in the case of services exported out of India where a refund of tax paid is available in respect of services themselves or, as the case may be, the inputs or input services used in such services, the date of-

(i) receipt of payment in convertible foreign exchange ⁶[or in Indian rupees wherever permitted by the Reserve Bank of India], where the supply of services had been completed prior to the receipt of such payment; or

(ii) issue of invoice, where payment for the services had been received in advance prior to the date of issue of the invoice;

(d) in case where the tax becomes refundable as a consequence of judgment, decree, order or direction of the Appellate Authority, Appellate Tribunal or any court, the date of communication of such judgment, decree, order or direction;

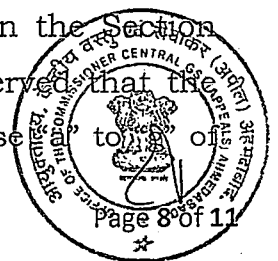
(e) ⁷[in the case of refund of unutilised input tax credit under clause (ii) of the first proviso to sub-section (3), the due date for furnishing of return under section 39 for the period in which such claim for refund arises;]

(f) in the case where tax is paid provisionally under this Act or the rules made thereunder, the date of adjustment of tax after the final assessment thereof;

(g) in the case of a person, other than the supplier, the date of receipt of goods or services or both by such person; and

(h) in any other case, the date of payment of tax.

6.3 From the above, as per the provision of Section 54(1), any refund claim / application under subject should be filed before the **expiry of two years from the relevant date**. The relevant date has been mentioned / defined in the Section 54(14)(2) as produced above. The adjudicating authority has observed that the subject refund claim does not fall under any of the category of clause



Section 54(14)(2) and hence falls under the clause "h" of the Section 54(14)(2). In view of the above, the relevant date is the date of the payment of tax. Further, I find that the payment of GST tax i.e interest was paid on 20.02.2019 by the appellant through ITC whereas the refund claim of the GST tax interest was filed on 16.09.2019, means after the expiry of two years provided under the Section 54(1) of the CGST Act, 2017. Refund mechanism is governed by the provisions made under Section 54 of the CGST Act, 2017 and refund claim should be filed before the expiry of two years from the relevant date. Thus, I find that ground for rejection of the refund claim by the adjudicating authority on time limitation factor is appropriate, legal and as per the provisions of CGST Act, 2017.

7. Now, I take up the issue whether the refund application filed by the appellant on account of interest paid on GST paid by ITC is refunded or not as per CBIC Circular F. No. CBEC-20/01/08/2019-GST dated 18.09.2020 for amendment in Section 50 of CGST Act, 2017 retrospectively w.e.f 01.07.2017 and as per the provisions under the CGST Act, 2017.

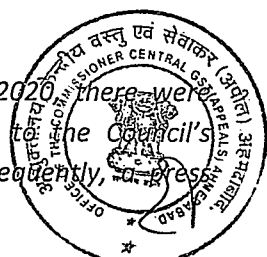
7.1 I have carefully gone through the facts of the case available on records and submissions made by the 'Appellant' in the Appeal Memorandum. I find that the 'Appellant' had preferred refund application on 16.09.2021 in respect of refund of interest of payment of taxes paid on GST by ITC amounting to Rs:18,71,942/- under Section 50 of the CGST Act, 2017 on the basis of Circular F. No. CBEC-20/01/2019-GST dated 18.09.2020 for amendment of Section 50 of CGST Act, retrospectively with effect from 01.07.2017 and further as per Notification No. 16/2021-Central Tax dated 1st June 2021 under-which the provisions of section 112 of the Finance Act, 2021 (13 of 2021) shall come into force.

The text of the Circular F. No. CBEC-20/01/2019-GST dated 18th September 2020, issued by the CBIC, GST Policy Wing, New Delhi, is re-produced as under:

"Based on the recommendations of the 35th meeting of the GST Council held on 21st June, 2019, the provision of section 50 was amended vide section 100 of the Finance (No. 2) Act, 2019 to provide for charging interest on the net cash tax liability. The said amendment was to be made effective from a date to be notified by the Government. Accordingly, the said provision was made effective vide notification No. 63/2020 — Central Tax dated the 25 August, 2020, w.e.f. 01.09.2020.

2. The GST Council, in its 39th meeting, held on 14th March, 2020 recommended interest to be charged on the net cash tax liability w.e.f. 01.07.2017 and accordingly, recommended the amendment of section 50 of the CGST Act retrospectively w.e.f. 01.07.2017. The retrospective amendment in the GST laws would be carried out in due course through suitable legislation.

3. Post issuance of notification 63/2020 — Central Tax dated the 25th August, 2020, there were apprehensions raised by taxpayers that the said notification is issued contrary to the Council's recommendation to charge interest on net cash liability w.e.f. 01.07.2017. Consequently, a press



release, dated 26.08.2020 was issued to clarify the position. Further, in order to implement the decision of the Council in its true spirit, and at the same time working within the present legal framework, it has been decided to address the issue through administrative arrangements, as under:

a. For the period 01.07.2017 to 31.08.2020, field formations in your jurisdiction may be instructed to recover interest only on the net cash tax liability (i.e. that portion of cash the tax that has been paid by debiting the electronic cash ledger or is payable through cash ledger); and

b. wherever SCNs have been issued on gross tax payable, the same may be kept in Call Book till the retrospective amendment in section 50 of the CGST Act is carried out."

Further, the Notification No. 16/2021-Central Tax, dated 1st June, 2021 issued by the CBIC, is as under :

"Government of India
Ministry of Finance (Department of Revenue)
Central Board of Indirect Taxes and Customs

Notification No. 16/2021 – Central Tax

New Delhi, the 1 st June, 2021

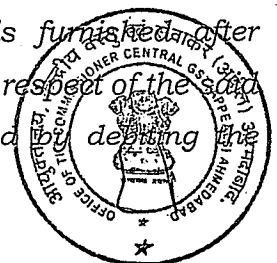
S.O. (E).— In exercise of the powers conferred by sub-section (2) of section 1 of the Finance Act, 2021 (13 of 2021) (hereinafter referred to as the said Act), the Central Government hereby appoints the 1 st day of June, 2021, as the date on which the provisions of section 112 of the said Act shall come into force. [F. No. CBIC-20001/5/2021]

(Rajeev Ranjan)

Under Secretary to the Government of India"

The text of provisions of section 112 of the Finance Act, 2021 (13 of 2021) is reproduced as under :

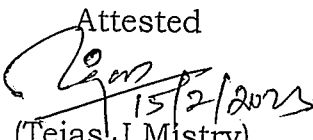
"112. In section 50 of the Central Goods and Services Tax Act, in sub-section (1), for the proviso, the following proviso shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:— "Provided that the interest on tax payable in respect of supplies made during a tax period and declared in the return for the said period furnished after the due date in accordance with the provisions of section 39, except where such return is furnished after commencement of any proceedings under section 73 or section 74 in respect of the said period, shall be payable on that portion of the tax which is paid by debiting the electronic cash ledger."



7.2 From the above and as per the amendment in Section 50 of the CGST Act, 2017 made vide Notification No. 16/2021-Central Tax, dated 1st June 2021, and as per amendment under Section 112 of the Finance Act, 2021 (13 of 2021) it is clarified by the CBIC Board / the Legislation to recover the interest on net cash liability under Section 50(1) of the CGST Act, 2021, however there is no clarification with regards to refund of such payment of interest. Hence, in absence of such clarification from the Board / the Legislation, the subject refund of interest on payment of GST tax paid by ITC is not admissible to the appellant and found the impugned order legal and correct as per the law passed by the adjudicating authority.

8. In view of above discussions, the *impugned order* passed by the *adjudicating authority* is upheld for being legal and proper and as per law to the extent of rejection of refund claim on time limitation in terms of Section 54 of the CGST Act, 2017 and amendment made under Section 50 of the CGST Act, 2017 as per Finance Act, 2021 (13 of 2021) and Notification No. 16/2021-Central Tax dated 1st June 2021. Accordingly, I reject the appeal of the "Appellant" without going into merits of all other aspects in terms of Section 54 of the CGST Act, 2017 read with Rule 89 of the CGST Rules, 2017.

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

Attested

(Tejas J Mistry)
Superintendent,
Central Tax (Appeals), Ahmedabad

By R.P.A.D.

To

M/s. Transformers & Rectifiers (India) Limited [GSTIN : 24AACCT8243P1ZV],
Survey No. 427 P/3-4, & 431 P/1-2, Sarkhej-Bavla Highway,
Village : Moraiya, Tal. Sanand, Dist. Ahmedabad, Gujarat : 382 213

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 Commissionerate
4. The Dy / Assistant Commissioner, CGST & C.Ex, Division-IV, Ahmedabad North Commissionerate.
5. The Additional Commissioner, Central Tax (System), Ahmedabad North Commissionerate.
6. The Superintendent (Systems), CGST Appeals, Ahmedabad, for publication of the OIA on website.
7. Guard File.
8. P.A. File.

(Mihir Rayka)
Additional Commissioner (Appeals)
Date: 2.2.2023



