



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/2160/2021-APPEAL / 7736-81
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-ADC-055/2022-23 and 22.07.2022
(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	22.07.2022
(ङ)	Arising out of Order-In-Original No. ZZ2407210144931 dated 12.07.2021 issued by The Assistant Commissioner, CGST, Division - I (Naroda), Ahmedabad North Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Isotex Corporation Pvt. Ltd. (GSTIN-24AACC19046D1ZS) Address:- 181/2/3/178/1/C, GIDC Industrial Estate, Naroda, Ahmedabad, Gujarat-382330

(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 <a href="http://www.cbic.gov.in">www.cbic.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. Isotex Corporation Private Limited**, 181 2 3 178 1 C, GIDC Industrial Estate, Naroda, Ahmedabad - 382 330 (hereinafter referred as '*Appellant*') has filed the present appeal against Order No. ZZ2407210144931 dated 12.07.2021 passed in the Form-GST-RFD-06 (hereinafter referred as '*impugned order*') rejecting refund claim of Rs.2,70,180/-, issued by the Assistant Commissioner, CGST & C. Ex., Division - I Naroda, Ahmedabad North (hereinafter referred as '*adjudicating authority*').

**2(i).** Briefly stated the facts of the case is that the '*Appellant*' is holding GST Registration - GSTIN No.24AACCI9046D1ZS has filed the present appeal on 07.10.2021. The '*Appellant*' had filed refund application for refund of Rs.2,70,180/- on 03.06.2021 for the period April'20 to March'21 on account of "*Refund by Supplier of deemed export*". In response to said refund claim a show cause notice dated 13.06.2021 was issued to the '*Appellant*'. In the said SCN it was mentioned that refund application is liable to be rejected for the reason "*Other*" and a Remark was also mentioned as "*PL COMPLY*".

**2(ii).** Further, the '*Appellant*' was asked to furnish reply to the SCN within 15 days from the date of service of SCN and a personal hearing was also offered to the '*Appellant*' on 18.06.2021 03.16 PM. Thereafter, the *adjudicating authority* has rejected the entire refund claim vide *impugned order* on the basis of aforesaid grounds as mentioned in SCN. In the *impugned order* a Remark is also mentioned as - "*The required documents were not submitted even after issuing of Show Cause Notice and also PH was not attended. Hence, entire claim is rejected.*"

**2(iii).** Being aggrieved with the *impugned order* the appellant has filed the present appeal on 07.10.2021 wherein stated that -

- A Show Cause Notice was issued to them for denying refund claim on the grounds that proof of documents regarding intimation of supply/receipt of goods to the jurisdictional tax office has not been uploaded.
- The *impugned order* in original rejecting the refund claim of Rs.2,70,180/- is based on extraneous consideration without adhering to





the conditions specified in Notification No. 49/2017 - Central Tax dated 18.10.2017, thus the order under appeal need to be vacated by allowing this appeal in the interest of justice and equity.

- Without considering the submissions of appellant the Refund claim has been simply rejected in cursory manner without verifying the documents uploaded, thus impugned order is non speaking and in clear violation of principle of natural justice.
- Referred case of
  - o State of Himachal Pradesh Vs. Sardara Singh (2008-TIOL-160-SC-NDPS)
  - o Commissioner of Central Excise Bangalore Vs. Srikumar Agencies [2008(232) E.L.ST. 577 (S.C.)].
- In totality followed the conditions prescribed at Sl. No. 1, 2 & 3 in Table of Notification No. 49/2017 – Central Tax dated 18.10.2017.
- They have submitted all the documents as prescribed in Circular No. 14/14/2017-GST dated 06.11.2017 although not required to submit physically.
- They have filed refund claim of the tax charged on goods supplied against invalidation of EPCG License No. 0830011857 dated 22.06.2020.
- They are supplier of deemed exports and they have filed the refund claim by complying with all the formalities as required by the point No. 6 of the Master Circular No 125/44/2019-GST dated 18.11.2019.
- The documents required under Circular No. 14/14/2017-GST are not to be uploaded by them as the Circular prescribes procedure regarding procurement of supplies from DTA by EOU/EHTP/STP unit under deemed export benefits. However, in the present case, appellant have filed refund application for refund of tax paid by the supplier.
- As they have complied with all procedural requirements needed for claiming refund of tax paid, the refund claim should be granted to them.
- As regards to allegation that proof of documents regarding intimation of supply/receipt of goods to the jurisdictional tax office has not been uploaded by them, the appellant submits that there is no such requirement in the present case. However, in order to establish that they have duly received the goods under invalidation of EPCG License No. 0830011857 dated 22.06.2020, they have submitted the copy of invoice along with e-way bill and Invalidation letter with the present appeal.
- It is very much surprising that in the SCN the reason for rejection of claim is mentioned as "Other", which does not specify the specific reasons for rejection, but in routine manner the refund claim is rejected.





3. Personal Hearing in the matter was through virtual mode held on 14.07.2022 wherein Sh. Nimesh Shah, CA appeared on behalf of the 'Appellant' as authorized representative. During P.H. he has reiterated the submissions made by them 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 Memorandum. I find that the 'Appellant' had preferred the refund application on account of "Refund by Supplier of deemed export" for the amount of Rs.2,70,180/-. In response to said refund applications Show Cause Notice was issued to them proposing rejection of refund claims for reasons mentioned as "Other". Thereafter, the said refund claim was rejected by the adjudicating authority vide impugned order wherein mentioned the Remark - "The required documents were not submitted even after issuing of Show Cause Notice and also PH was not attended. Hence, entire claim is rejected".

4(ii). I find that the appellant is contending in the present appeal that they have followed all the conditions prescribed in Notification No. 49/2017-Central Tax dated 18.10.2017. The relevant para of notification is reproduced as under:

*Central Government hereby notifies the following, as detailed in column (2) of the Table below, as evidences which are required to be produced by the supplier of deemed export supplies for claiming refund, namely:-*

Table

S. No.	Evidence
(1)	(2)
1.	Acknowledgment by the jurisdictional Tax officer of the Advance Authorisation holder or Export Promotion Capital Goods Authorisation holder, as the case may be, that the said deemed export supplies have been received by the said Advance Authorisation or Export Promotion Capital Goods Authorisation holder, or a copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it.
2.	An undertaking by the recipient of deemed export supplies that no input tax credit on such supplies has been availed of by him.
3.	An undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and the supplier may claim the refund.





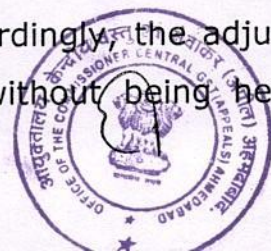
Further, I find that the appellant is contending in present appeal that they have submitted all the documents as prescribed in Circular No. 14/14/2017-GST dated 06.11.2017.

I find that as per the above Notification and Circular the copy of the tax invoice under which such supplies have been made by the supplier, duly endorsed by recipient EOU / EHTP / STP / BTP unit are to be considered as proof of deemed export. In the present matter the appellant has produced the copy of tax invoice under which supplies were made and also produced the copy of declaration as well as intimation for receipt of goods made by the recipient party M/s. Claroid Pharmaceuticals Pvt. Ltd. Further, in support to establish the supplies the appellant has also produced the copy of e-way bill.

**4(iii).** Further, I find that the appellant has produced the copy of refund application in the present appeal proceedings. According to said copy of refund application, the appellant had submitted the Declaration Undertaking, Invoice, Letter and STAT 5B-Claroid letter along with the refund application at the material time.

In view of above, I find that the appellant had submitted the documents in support of their refund claim along with the refund application. However, I find that the *adjudicating authority* has rejected the refund claim for the reasons that '*Appellant*' has not replied the SCN, not attended the PH and not uploaded the required documents. On perusal of SCN and *impugned order*, I find that neither in the SCN nor in the *impugned order* the specific requirement of documents is mentioned. Since, the reasons for rejection of refund mentioned in SCN as '*Other*' only, I am of the view that specific reason for proposed rejection should be specifically mentioned in the SCN so as to enable the claimant to give reply in a conclusive and reasonable manner. Accordingly, on perusal of the SCN in the present matter, I find it fall short of all the known principles of natural justice and no prudent man could have given reply to the kind of SCN.

**4(iv).** Further, I find that without considering/referring the documents submitted by appellant along with refund application the *adjudicating authority* has rejected the refund claim. Hence, I find it relevant to refer Rule 92(3) of the CGST Rules, 2017 according to which "*no application for refund shall be rejected without giving the applicant an opportunity of being heard*". In the present case I find that the appellant could not attend the PH on given date and accordingly, the *adjudicating authority* has rejected the refund application without being heard the



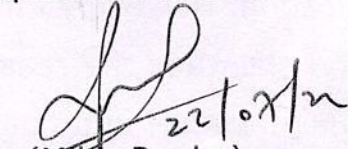


appellant. Therefore, I find that the *adjudicating authority* has violated the principle of natural justice in passing the *impugned order* vide which rejected the refund claim without being heard the *appellant* as well as without communicating the valid or legitimate reasons before passing said order. Further, I am of the view that proper speaking order should have been passed by giving proper opportunity of personal hearing in the matter to the '*Appellant*' and detailing factors leading to rejection of refund claim should have been discussed. Else such order would not be sustainable in the eyes of law. Therefore, the *adjudicating authority* is hereby directed to process the refund application of the *appellant* by following the principle of natural justice. The '*Appellant*' is also directed to submit all relevant documents/submission before the *adjudicating authority*.

5. 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*" 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 read with Rule 89 of the CGST Rules, 2017.

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

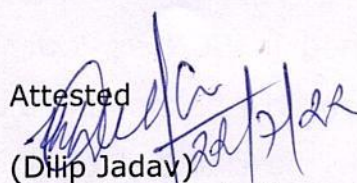
The appeal filed by the appellant stands disposed of in above terms.

  
(Mihir Rayka)

Additional Commissioner (Appeals)

Date: 22.07.2022

Attested

  
(Diip Jadav)  
Superintendent (Appeals)  
Central Tax, Ahmedabad





By R.P.A.D.

To,

M/s. Isotex Corporation Private Limited,  
181 2 3 178 1 C, GIDC Industrial Estate,  
Naroda, Ahmedabad - 382 330

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 Dy./Asstt. Commr., CGST & C. Ex, Divn-I Naroda, Ahmedabad North.
5. The Additional Commissioner, Central Tax (System), Ahmedabad North.
- ✓ 6. Guard File.
7. P.A. File

