



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/2192/2021-APPEAL / 2282-82
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-ADC-056/2022-23 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. ZS2408210234932 dated 17.08.2021 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 Ravi Electronics (Hitesh Jayantilal Shah HUF) (GSTIN - 24AAAH6771B1ZN) Address:- A 2 11, Manohar Vila, Near Shivshaktinagar, New 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. Ravi Electronics**, (Legal name – Hitesh Jayantilal Shah HUF), A 2 11, Manoharvila, Near Shivshaktinagar, New Naroda, Ahmedabad – 382 330 (hereinafter referred as '*Appellant*') has filed the present appeal against Order No. ZS2408210234932 dated 17.08.2021 passed in the Form-GST-RFD-06 (hereinafter referred as '*impugned order*') 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.24AAHH6771B1ZN has filed the present appeal on 21.10.2021. The '*Appellant*' had filed refund application on 21.06.2021 for refund of Rs.4,680/- for the period April'18 to March'19 on account of "*Refund on account of Supplies to SEZ unit/SEZ Developer (with payment of tax)*". In response to said refund claim a show cause notice dated 26.07.2021 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 "*The refund claim application has not been filed within the time limit of 02 years as specified under Section 54 of the CGST Act 2017*".

**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 02.08.2021 5.35 PM. Thereafter, the *adjudicating authority* has rejected the entire refund claim vide *impugned order* with Remark as – "*The claim is time barred and hence rejected*".

**2(iii).** Being aggrieved with the *impugned order* the *appellant* has filed the present appeal on 21.10.2021 wherein stated that –

- They have made refund application in time and it is not time barred as per Section 54 of the CGST Act, 2017.
- As per Notification No. 15/2021-Central Tax dated 18.05.21, time period of two years exclude the time period, from the date of filing refund claim till the date of communication of the deficiency in Form GST RFD-03 by the proper officer.





- Applicant has already filed 1<sup>st</sup> Refund application dated 29.02.2020 for April'18 to March'19 which is well within time as permitted by law, against which Deficiency memo generated dated 05.03.2020. Accordingly, to remove deficiency generated, applicant filed 2<sup>nd</sup> refund application on 18.03.2021, against which deficiency generated stating that – “supporting document not uploaded & advised to file fresh refund application after rectification of deficiencies”
- Further, filed 3<sup>rd</sup> refund application on 30.03.21 against which deficiency generated that “claim is time barred”. After discussion with concerned officer, again filed refund application on 21.06.2021 against which provisions refund order issued dated 13.07.21 and received Rs.4212/- in Bank Account.
- Referred order of Hon'ble Supreme Court in the Suo Motu Writ Petition SMW(C) No. 3 of 2020. Appellant has made following prayer
  - o to set aside the 'order' appealed against for demand of Rs.4212/- refund granted
  - o to grant Final refund for the difference amount Rs.468/-

3. Personal Hearing in the matter was through virtual mode held on 14.07.2022 wherein Sh. Shrey Tripathi, CA & Sh. Paresh J. Shah, CA appeared on behalf of the 'Appellant' as authorized representative. During P.H. they have reiterated the submissions made 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 on account of Supplies to SEZ unit/SEZ Developer (with payment of tax)” for the amount of Rs. 4,680/-. In response to said refund application Show Cause Notice was issued to them proposing rejection of refund claims for the reasons that “The refund claim application has not been filed within the time limit of 02 years as specified under Section 54 of the CGST Act 2017” and subsequently refund claim was rejected vide impugned order.

4(ii). I find that in this case refund claim was rejected solely on time limitation ground. From the facts of the case I find that the refund claim for the period April'18 to March'19 after receiving deficiency memos, lastly filed on 21.06.2021, is beyond two years from the relevant date





prescribed under explanation (2) to Section 54 of the CGST Act, 2017 and hence beyond time limit prescribed under Section 54(1) of the CGST Act, 2017. In the present appeal proceedings, the Appellant has relied upon the order of Hon'ble Supreme Court in Misc. Application No. 665/2021 in SMW(C) No. 3/2020. I find that Hon'ble Supreme Court vide Order dated 23.09.2021 ordered that for computing the period of limitation for any suit, appeal, application or proceedings the period from 15.03.2020 till 02.10.2021 shall stand excluded and consequently balance period of limitation remaining as on 15.03.2020 if any, shall become available with effect from 03.10.2021 and that in cases where the limitation would have expired during period from 15.03.2020 till 02.10.2021 notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 03.10.2021. Subsequently, Hon'ble Supreme Court vide order dated 10.01.2022 ordered that in continuation of order dated 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purpose of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

**4(iii).** Further, I find that the on the subject matter recently Notification No. 13/2022-Central Tax dated 05.07.2022 has been issued by the CBIC. The relevant para is reproduced as under :

*(iii) excludes the period from the 1<sup>st</sup> day of March, 2020 to the 28<sup>th</sup> 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 1<sup>st</sup> day of March, 2020.*

In view of above, I find that in the present matter the claim was filed for the period April'18 to March'19 on 21.06.2021, accordingly, following the order of Hon'ble Supreme Court in MA 665/2021 in SMW(C) No. 3/2020 as well as in the light of Notification No. 13/2022-Central Tax dated 05.07.2022, I hold that the entire claim for April'18 to March'19 filed on 21.06.2021 is not hit by time limitation prescribed under Section 54 of the CGST Act, 2017. Hence, the appeal filed by the appellant succeeds on time limitation ground. Needless to say, since the claim was rejected on the ground of time limitation, the admissibility of refund on merit is not examined in this proceeding. Therefore, any claim of refund filed in consequence to this Order may be examined by the appropriate



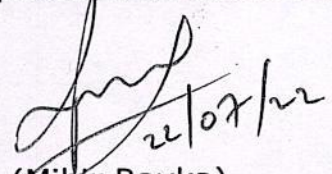


authority for its admissibility on merit in accordance with Section 54 of the CGST Act, 2017 and Rules made thereunder.

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।

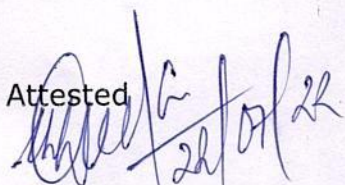
The appeal filed by the appellant stands disposed of in above terms.

  
(Mihir Rayka)

Additional Commissioner (Appeals)

Date: 22.07.2022

Attested

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



By R.P.A.D.

To,

M/s. Ravi Electronics, (Legal name – Hitesh Jayantilal Shah HUF),  
A 2 11, Manoharvila, Near Shivshaktinagar,  
New 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 Deputy/Assistant Commissioner, CGST & C. Ex, Division-I Naroda, Ahmedabad North.
5. The Additional Commissioner, Central Tax (System), Ahmedabad North.
6. Guard File.
7. P.A. File