



आयुक्त का कार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeal Ahmedabad Commissionerate
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.
GST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015
Phone: 079-26305065 Fax: 079-26305136
E-Mail : commrappl1-cexamd@nic.in



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DIN NO. : 20220964SW00009429C4

(क)	फाइल संख्या / File No.	GAPPL/ADC/GSTP/1908/2022-APPEAL/3125-81
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-ADC-65/22-23 & 26.09.2022
(ग)	पारित किया गया / Passed By	श्री मिहिर रायका, संयुक्त आयुक्त अपील Shri Mihir Rayka, Additional Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of issue	26.09.2022
(ङ)	Arising out of Order No. (1) Final Audit Report No. GST/62/2022-23 dated 17.05.2022 passed by The Deputy Commissioner, Circle-V, CGST Audit, Ahmedabad	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Berawala Textile Pvt. Ltd. (GSTIN-24AAACB9675K1ZB) 301, Anand Industrial Estate, Ginning Mill Compound, 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 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 .

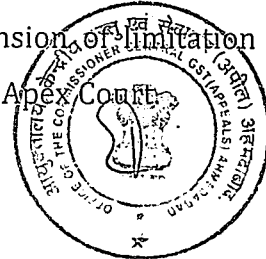
ORDER-IN-APPEAL

M/s. Berawala Textile Pvt. Ltd. , having registered address at 301, Anand Industrial Estate, Ginning Mill Compound, Naroda, Ahmedabad, Gujarat - 382330 (*hereinafter referred to as 'appellant'*) has filed the present appeal against the Final Audit Report No. GST-62/2022-23, dated 17.05.2022 (*hereinafter referred to as 'Audit Report'*) issued by the Deputy Commissioner, Circle-V, CGST Audit, Ahmedabad. (*hereinafter referred to as 'Audit Authority'*).

2. Facts of the case, in brief, are that the *appellant* is registered under the Central Goods and Services Tax Act, 2017 vide GST Registration GSTIN No. 24AAACB9675K1ZB. They had been issued a Final Audit Report No. GST-62/2022-23, dated 17.05.2022 by the '*Audit Authority*' i.e. the Deputy Commissioner, Circle-V, CGST Audit, Ahmedabad, on conducting GST Audit under Section 65 of the CGST Act, 2017 and raised tax liability of Rs.3,60,912/- alongwith interest and penalty vide unsettled Revenue Para-1 as ITC availed by the appellant on account of non-filing of return by the supplier. On other settled Revenue Para Nos. 2 to 4 the appellant was agreed to the audit objections and paid the tax amounts alongwith interest & penalty, as the case may be, for the respective paras.

3. Being aggrieved with the said Audit Report, the appellant preferred this appeal on the following grounds, that:-

- the Deputy Commissioner has charged penalty during reversal of excess ITC for FY 2018-19 as less ITC is reflected in GSTR-2A. As there is no alleged reason of fraud, willful mis-statement or suppression of facts, penalty cannot be charged.
- the Deputy Commissioner has charged penalty for short payment of tax under RCM, assessee has provided the ledgers for calculation of RCM , hence there is no fraud, willful mis-statement or suppression of facts. Hence, penalty cannot be charged.
- the Deputy Commissioner has charged interest due to payment made to supplier after 180 days without considering the extension of limitation period vide Notification No. 55/2020-CT and also by the Appellate Court.



4. Subsequently, the appellant vide letter dated 29.08.2022 withdrew the subject appeal. The GST practitioner Shri Rohan Shah, on behalf of the appellant, informed that they filed the first appeal against the GST Audit Report [GST ADT-02] and since GST ADT-02 is not an adjudication order, so as to file appeal against the said order before the first appellant authority, they withdrew the appeal to put the matter before the proper adjudication authority.

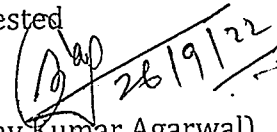
5. Accordingly, considering the appellant's request for withdrawal of appeal, I dismiss the appeal as withdrawn without going into the merit of the case.

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: 26/09/2022

Attested


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



By R.P.A.D.

To,
M/s. Berawala Textile Pvt. Ltd.,
301, Anand Industrial Estate,
Ginning Mill Compound,
Naroda, Ahmedabad, Gujarat - 382330

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 Additional Commissioner, Central Tax (Systems), Ahmedabad North.
5. The Deputy/Assistant Commissioner, CGST & C. Ex., Division-II-Naroda Road, Ahmedabad- North.
6. The Superintendent, CGST & C. Ex., Range-I, Division-II-Naroda Road, Ahmedabad - North.
7. Guard File.
8. P. A. File.

