



सत्यमेव जयते

आयुक्तकाकार्यालय  
Office of the Commissioner  
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय  
Central GST, Appeal Ahmedabad Commissionerate  
जीएसटी भवन, राजस्व मार्ग, अम्बावाडी अहमदाबाद ३८००१५.  
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(क)	फाइल संख्या / File No.	GAPPL/ADC/GSTP/16/2023 / 2912 - 28
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-JC-23/2023-24 and 07.07.2023
(ग)	पारित किया गया / Passed By	श्री आदेश कुमार जैन, संयुक्त आयुक्त (अपील). Shri Adesh Kumar Jain, Joint Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of issue	10.07.2023
(ङ)	Arising out of Order-In-Original No. ZD2409220123323 dated 09.09.2022 passed by The Assistant Commissioner, Division-IV, Ahmedabad North Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Amneal Pharmaceuticals Pvt. Ltd., 15,16,17 Pharmaceuticals Economis Special Zone, Sarkhej Bavla Highway, Vill Matoda, TA Sanand, Ahmedabad-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 <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 Amneal Pharmaceuticals Private Limited, 15/16/17, Pharmaceuticals Special Economics Zone, Sarkhej Bavla Highway, Vill. Matoda, Ta-Sanand, Ahmedabad, Gujarat - 382 213 (hereinafter referred to as *the 'Appellant'*) has filed the present appeal against the Order No. ZD2409220123323 dated 09.09.2022 (hereinafter referred to as the *'impugned order'*) rejecting partial refund claim amounting to Rs. 73,816/- passed by the Assistant Commissioner, CGST & C. Ex., Division- IV, Ahmedabad North Commissionerate (hereinafter referred to as *the 'adjudicating authority'*) of input tax credit against export of goods and services.

**2 (i).** Briefly stated the facts of the case are that the *'Appellant'* is holding GST Registration No. 24AAGCA0781K2ZO and has filed the present appeal on 08.12.2022. The appellant are engaged into business of manufacturing and export of pharmaceuticals products and also undertakes research and development activity on various pharmaceutical products. The appellant had filed refund claim in form of GST-RFD-01 vide ARN No. AA240822022187G dated 06.08.2022 for Rs. 4,92,561/- under the category of "EXPORTS OF GOODS / SERVICE - W/O PAYMENT OF TAX (ACCUMULATED ITC) for the tax period October-2020 to December-2020 under LUT in terms of Rule 89(2) of CGST Rules, 2017. Thereafter, the appellant have been issued a Show Cause Notice No. ZC2408220292 dated 25.08.2022 by the Assistant Commissioner, CGST & C.Ex, Division-IV, Ahmedabad North Commissionerate, on the grounds that



*"A. During the course of verification of above refund claim, following discrepancies were noticed:*

- 1. As per RFD-01, Adjusted Total Turnover is shown Rs.263,53,80,109/-, whereas the same is found to be Rs. 272,97,49,978/- as per verification of GSTR-3B.*
- 2. During the course of verification of Annexure-B, it is noticed that the date of Invoice No. ISD/28/20-21 is 30.09.21 and date of invoice No. ISD/34/20-21 is 31.10.2022, which is beyond the claim period Oct-2020 to Dec-2020. The said invoices containing the Total ITC amounting to Rs. 3,66,584/-. Therefore, the ITC amounting to Rs. 3,66,584/- of the said invoice is ineligible for refund calculation.*

3. During the course of verification of application submitted by the claimant, it is observed that claimant had failed to upload the copy of 83 Shipping Bills (Non-EDI) containing the total FOB value of Rs.109,69,64,399/- mentioned in Statement-3. Therefore the FOB value of the said shipping bills amounting to Rs. 109,69,64,399/- is found inadmissible for the purpose of refund calculation.”

The appellant submitted their reply on 30.08.2022 in FORM GST-RFD-09 stating that “ Respected Sir, kindly find attached herewith submission letter, reconciliation between GSTR-3B vs RFD-01, Annexure-B and copy of shipping bills.”

Further, the adjudicating authority has rejected the refund claim vide impugned order in Form GST-RFD-06 stating in para 9.1 to 9.3 that

“9.1 In reply of point No. A1 of SCN in reference of Adjusted Total Turnover, claimant submitted that they may not consider invoices of services export outside India against which payment is pending to receive. While claiming refund they considered invoices for services export outside India only against which payment has been received and they also mention details of BRC / FIRC against the same.

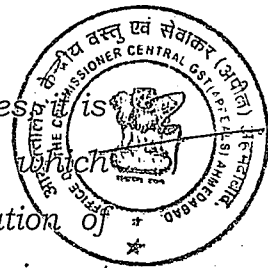
As per the Rule 89(4) of the CGST Rules, 2017, definition of Adjusted Total Turnover is mentioned below : [(E) “..... “

In the definition of Adjusted total turnover mentioned in the CGST Rules is not mentioned that invoices of service export outside India against which payment is pending to received, are not to be consider for calculation of Adjusted Total Turnover. Hence, claimant submission in this matter is not justified and tenable. Therefore, Adjusted total turnover of Rs. 272,97,49,978/- should be taken into account while calculating the eligible amount of refund.

Accordingly, I find that as per the Rule 89(4)(E) of CGST Rules, 2017, Adjusted Total Turnover of Rs. 272,97,49,978/- shall be taken into account while calculating the eligible amount of refund.

9.2 .....

As per the claimant submission and verification of revised Annexure-B, it appears that it may be typographical error. Hence, as per the revised Annexure-B, both the said invoices containing the total ITC amounting to Rs.



3,66,584/- should be considered for calculation of Net ITC in this refund application.

Accordingly, I find that as per claimant submission, Net ITC of Rs. 4,92,808/- shall be taken into account while calculating the eligible amount of refund.

9.3 In reply of Point No. A3 of SCN, claimant submitted that out of 83 Shipping Bill as per Annexure-1, Sr. No. 81 to Sr. No. 83 are Debit Notes issued during the respective period, for which they are not able to generate shipping bill. In that case they have attached 80 shipping bill along with reply.

On the verification of submission and documents by the claimant in respect of point no. A3 of SCN, it is observed that claimant has submitted the copy of 73 shipping bills along with reply. All 73 shipping bills are verified and found in order. But claimant has not submitted copy of 6 (six) shipping bills and copy of 3 (three) Debit Notes amounting to FOB value of Rs. 30,70,61,853/- (as per Statement-3) mentioned in SCN. Details are as under :

Sr No	Sr No of Ann-B	Category	Goods / Services (G/S)	FOB Value as per ICEGATE	Shipping Bill / Bill of Export		
					Port Code	No	Date
1	90	Goods	Export of goods under LUT	2922979	INMUN1	4005590	09-11-2020
2	91	Goods	Export of goods under LUT	3034132	INAMD4	4005623	11-11-2020
3	92	Goods	Export of goods under LUT	3188814	INAMD4	4005624	11-11-2020
4	93	Goods	Export of goods under LUT	2584853	INMUN1	4005632	11-11-2020
5	108	Goods	Export of goods under LUT	24961117	INMUN1	4005843	26-11-2020
6	183	Goods	Export of goods under LUT	31259133	INMUN1	4006501	31-12-2020
7	186	Goods	Export of goods under LUT-Debit Note	177504009	INAMD4	4004856	01-10-2020
8	187	Goods	Export of goods under LUT-Debit Note	31899903	INMUN1	4005106	15-10-2020
9	188	Goods	Export of goods under LUT-Debit Note	29706913	INMUN1	4005384	29-10-2020
				307061853			

Apart from the above, it also observed that FOB value mentioned is Rs. 3,20,74,642/- in Shipping Bill No. 4005384 dated 29.10.2020 submitted by the claimant but the FOB value of Rs. 39571552/- is mentioned in the Statement-3. Hence, claimant has claimed Rs. 74,96,910/- excess Zero Rate Turnover as per document submitted.

*In the absence of copy of 6 Shipping Bills and copy of 3 Debit Notes, Zero Rated Supply (FOB Value) of the said Shipping Bills and Debit Notes of Rs. 30,70,61,853/- should not be considered for calculation of Total Turnover of Zero rated. Further, claimant has claimed Rs. 74,96,910/- excess Zero Rated Turnover, as described above, that also should not be considered for calculation of Total Turnover of Zero Rated.*

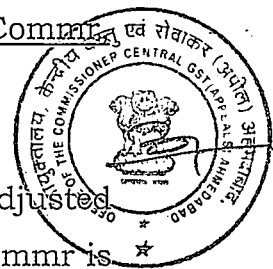
*Accordingly, I find that Zero Rated supply (FOB Value) of Rs. 31,45,58,763/- shall not be taken into account while calculating the Total Turnover of Zero Rated. Hence, I find the Total Turnover of Zero Rated in Rs. 231,95,02,342/- shall be taken into account while calculating the eligible amount of head.”* Accordingly, the adjudicating authority / refund sanctioning authority found that the appellant is eligible for the Total Turnover of Zero Rated Supply of Goods and Services amounting to Rs. 231,95,02,342/- and Net ITC amounting to Rs. 4,92,808/- for the purpose of calculation of refund being claim and Total Adjusted Turnover amounting to Rs. 272,97,49,978/-, and the appellant was found to be eligible for a refund of Rs. 4,18,745/- only out of Rs. 4,92,561/- and thus rejected the refund amounting to Rs.73,816/-.

**2 (ii).** Being aggrieved with the impugned order the appellant has filed the present appeal on 08.12.2022 mainly on the following reasons-

Increase in adjusted total turnover, as determined by learned Asst. Commr. compared to adjusted total turnover mentioned in refund application:

- While making refund application, the appellant had disclosed adjusted total turnover of Rs.263,53,80,109/- while the learned Asst. Commr is of the view that adjusted total turnover shall be total turnover as mentioned in GSTR-3B i.e Rs. 272,97,49,978/-, the Asst. Commr. has erred in law and facts of the case while adopting turnover as per GSTR-3B return as adjusted total turnover for refund calculation.
- The appellant further refer to the Rule 89 which provides definitions for claiming input tax credit refund. Relevant definitions are reproduced as under :

*“Turnover of zero-rated supply of services” means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-*



“Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;

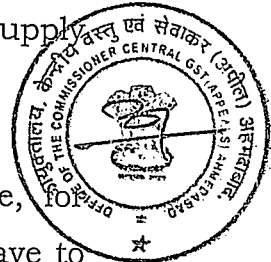
“(E) “Adjusted Total Turnover” means the sum total of the value of -

- (a) the turnover in a State or a Union territory, as defined under clause (112) of Section 2, excluding the turnover of services, and
- (b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding-
  - (i) the value of exempt supplies other than zero-rated supplies; and
  - (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub rule (4B) or both, if any, during the relevant period”

Thus, it can be noted that for determining value of export of services, need to consider (i) payments received during relevant period; and (ii) services completed for which advance was received, reduced by advance received for zero-rated supply of services for which the supply of services has not been completed during the relevant period.

In our present case, no advances received for services, hence, determining zero rated supply of services for refund purpose, have to consider sum of payments received during the relevant turnover. Further, in GSTR-1 and GSTR-3B return, the appellant have reported invoice on accrual basis, as and the when invoices are raised to their client.

Thus, the turnover as per GSTR-3B return vis-à-vis total adjusted turnover for refund purpose will be different as refund applications requires the appellant to consider turnover on receipt basis as far as export of services is concerned while turnover for GST return is determined on accrual basis.



- The appellant submitted reconciliation of difference between TOTAL TURNOVER as per GSTR-3B vis-à-vis TOTAL ADJUSTED TURNOVER as per their refund application to the jurisdictional Asst. Commr., and also provided detailed reconciliation of difference in turnover report in GSTR-3B viz-a-viz refund application.

From the reconciliation, it is clearly seen that the difference pertains to export of services only. As per provision laid down under Rule 89, the appellant required to consider only those invoices in TOTAL ADJUSTED TURNOVER, payment of which has been received during the relevant period.

It is a settled law that benefit of export of services are provided only when consideration against such service in freely convertible foreign exchange is realized by the Exporter. The same has also been noted in definition of "export of services" in Section 2(6) of IGST Act, 2017, which stipulates realization of payment as mandatory condition for export of services.

As per the opinion of the adjudicating authority, export of services declared in GSTR-3B is required to be considered for refund application, then this will increase not only adjusted total turnover, but also increase in zero rated turnover for refund purpose. Thus, the learned adjudicating authority has adopted two different approaches, which is bad in law. Thus, requested to adopt adjusted total turnover declared in refund application.

Inadmissible amount pertaining to export of goods on account of shipping bills:

- The appellant provided 170 shipping bills as well as uploaded on GST portal i.e details of all the export of goods transactions, while filing refund application in FORM GST RFD-01.
- The adjudicating authority in their Show Cause Noticed issued dtd 25.08.2022 stating that the appellant has failed to upload copy of 83 shipping bills. In response to the aforesaid SCN, in reply the appellant has again uploaded the copies of 83 shipping bills as desired in SCN, while passing the adjudication order it has been stated by the adjudicating authority that the appellant failed to upload 6 shipping



bills and hence the turnover pertaining to the 6 shipping bills should be disallowed.

- Further, the adjudicating authority has also disallowed turnover pertaining to 3 debit notes raised against export of goods outside India, reason for which has not been specified by the adjudicating authority and which was not mentioned in Show Cause Notice dtd 25.08.2022. The appellant has submitted copy of uploaded 83 shipping bills as well as 3 debit notes alongwith the appeal memorandum.
- Further, the appellant requested to accept (i) zero rated turnover declared by them in their refund application, (ii) adjusted total turnover declared by them in their refund application, (iii) allow full export of goods value declared by them in refund application, and approve entire refund claim amount.

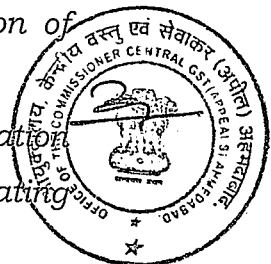
**PERSONAL HEARING :**

3. Personal Hearing in the matter was held on 30.06.2023, wherein Mr. Karan Rajvir, Sr. Executive & C.A and Mr. Satyajit Naik, General Manager, appeared in person on behalf of the 'Appellant' as Authorized Representatives. During the personal hearing, vide letter dated 30.6.2023 they made additional submissions and stated that the learned adjudicating authority has erred in

- 1) Calculation of total adjusted turnover by adding the invoices for which payment is not received in denominator but not in numerator. Thus, total adjusted turnover should be calculated after deduction of invoice value for which payment is not received as per Rule 89.
- 2) 6 shipping bills and 3 debit notes mentioned in refund application not counted the same for Zero Rated Turnover by the Adjudicating Authority;
- 3) As regards the difference of Rs. 74.86 lakhs in total FOB value of supply. One S/B No. 4005384 dtd 29.10.2020 was claimed, but inadvertently missed; mentioned in Statement-3 as Rs. 3.95 crores for S/B No. 4005382 dated 29.10.2020, which is a typographical error.

**Additional submissions:**

4. The difference in refund amount claimed by vis-a-vis refund amount determined by the adjudicating authority is due to difference in Zero Rated Turnover and Total Adjusted Turnover declared by the appellant vis-à-vis turnover determined by the adjudicating authority:





Sr No	Particulars	Zero Turnover supply	Rated supply	Adjusted Turnover	Total
1	As per RFD-01 (A)		263,40,61,105		263,53,80,109
2	Amount determined by leaned Asst. Commr. (B)		231,95,02,342		272,97,49,978
3	Difference [(C) - (A- B)]		31,45,58,763		- 94369869
	Reasons for Difference				
	<b>Less</b> Goods - Shipping Bill & Debit Note difference (Reason -1)		30,70,61,853		
	<b>Add</b> Export of services difference (Reason 2)			9,43,69,868	
	<b>Less</b> sub para-3 of Para 9.3 of refund order (Reason 3)		74,96,910		
	<b>Net Difference</b>		<b>NIL</b>		<b>NIL</b>

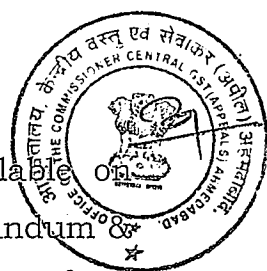
The adjudicating authority in sub-para 3 of Para 9.3 of refund order has mentioned that:

*“Apart from above, it is also observed that FOB value mentioned is Rs.3,20,74,642/- in Shipping Bill No. 4005384 dated 29.10.2020 submitted by the claimant but the FOB of Rs. 3,95,71,552/- is mentioned in the Statement-3. Hence, claimant has claimed Rs. 74,96,910/- excess Zero Rated Turnover as per documents submitted.”*

The appellant further admitted their small error while filing refund application by stating that they had filed multiple shipping bill details on 29 October 2020 - Shipping bill number 4005384 as well as 4005382. FOB value of S/B No. 4005384 is INR 3,20,74,642 while FOB value of S/B No. 4005382 is INR 74,96,911/-. By oversight, the appellant added both values and mentioned the same against one shipping bill, and submitted copies of both S/Bs and requested to condone small error.

**DISCUSSION AND FINDINGS :**

5. I have carefully gone through the facts of the case available records, submissions made by the 'Appellant' in the appeal memorandum additional submission; I find that the 'Appellant' had preferred the refund application before the refund sanctioning authority. The refund sanctioning authority [Adjudicating Authority] has partially sanctioned i.e Rs. 4,18,745/- (Out of Rs. 4,92,561/-) and partially rejected refund amount i.e Rs. 73,816/- the refund application vide impugned order, as mentioned in Para 2(i) above. Accordingly, the appellant has preferred the present appeal. The main issue to be decided in the matter is whether the impugned order is legal and proper or otherwise?



5.1 I find that in the present appeal the appellant contended that Adjudicating Authority has erred in calculating the Total Adjusted Turnover and Zero rated turnover as per the Rule 89 of the CGST Rules, 2017. For this, I refer to the Rule 89(4) of the CGST Rules, 2017, under which various definitions for claiming input tax credit refund, the relevant definitions are re-produced as under:

Rule 89 (4) of the CGST Rules, 2017:

*"Rule 89 (4) : In the case of zero-rated supply of goods or services or both without payment of tax under bond or letter of undertaking in accordance with the provisions of sub-section(3) of Section 16 of Integrated Goods and Services Tax Act, 2017 (13 of 2017), refund of input tax credit shall be granted as per the following formula-*

*Refund Amount = (Turnover of Zero rated supply of goods + Turnover of zero-rated supply of services) X Net ITC / Adjusted Total Turnover*

*Where-*

- (A) *"Refund Amount" means the maximum refund that is admissible;*  
 (B) *"Net ITC" means input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under sub-rule (4A) or (4B) or both;*  
 (C) *"Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or (4B) or both.*  
 (D) *"Turnover of Zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter or undertaking, calculated in the following manner, namely:-*

*Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;*

- (E) *"Adjusted Total Turnover" means the sum total of the value of:*  
 (a) *the turnover in a State or a Union Territory, as defined under clause (112) of Section 2, excluding the turnover of services; and*  
 (b) *the turnover of zero-rated supply of services determined in terms of clause (D) above and non zero-rated supply of services, excluding-*  
 (i) *the value of exempt supplies other than zero-rated supplies; and*  
 (ii) *the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period.*

*....."*



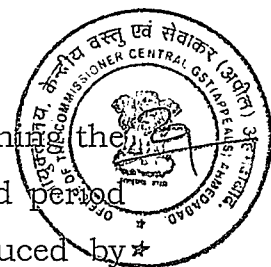
Further, the term "Turnover in a State or a Union Territory" has been defined vide Section 2(112) of the CGST Act, 2017, which is reproduced below:

*"Section 2(112): "Turnover in State" or "Turnover in Union Territory" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reversed charge basis) and exempt supplies made within a State or Union Territory by a taxable person, exports of goods or services or both and inter-state supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes Central Tax, State Tax, Union Territory Tax, Integrated Tax and Cess"*

For this, I refer to the Para 4 of the CBIC's Circular No. 147/03/2021-GST dated 12.03.2021 under which it has clarified that the same value of zero-rated /export supply of goods, as calculated as per amended definition of "Turnover of zero-rated supply of goods", need to be taken into consideration while calculating "turnover in a state or a union territory", and accordingly, in "adjusted total turnover" for the purpose of sub-rule (4) of Rule 89.

**5.2** Accordingly, it is clarified that for the purpose of Rule 89(4), the value of export/ zero rated supply of services for which payment received only to be included while calculating "adjusted total turnover" will be same as being determined as per the amended definition of "Turnover of zero-rated supply of services" in the said sub-rule.

**5.3** From the above para 5.1 & 5.2, it is clear that while determining the value of export of services, (i) payments received during the refund period and (ii) services completed for which advance was received, reduced by advance received for zero-rated supply of services for which the supply of services has not been completed during the relevant period, are to be considered. I observed that the appellant claimed and stated that they have not received any advances for services exported. Here, I find that the adjudicating authority has considered and calculated *total adjusted turnover by adding the invoices for which payments not received by the appellant in denominator* of the refund formula, but the adjudicating authority erred to consider it in *numerator also* in the refund formula, which resulted into increase *adjusted total turnover* in the denominator. Further, the appellant has submitted reconciliation of difference between total turnover as per GSTR-3B vis-a-viz total adjusted turnover as per refund application which



explicitly mentioned that the difference pertains to exports of services only. As per the provisions under Rule 89, the appellant have to consider only those invoices in "adjusted total turnover" for which payments have been received during the relevant period. From the above, I am of the considered opinion that *adjusted total turnover* should be calculated after deduction of invoice value for which payment is not received as per the provisions of Rule 89 of CGST Rules, 2017 and export value from GSTR-3B not to be taken while computing the refund amount. The appellant submitted that in GSTR-3B they have shown all the export invoices on accrual basis (i.e as and when issued) under which they have made exports and includes export invoices for which they have not received payments also.

From the above, in my opinion, I find that the adjudicating authority should adopt single approach for computation of refund amount in the refund formula instead of adopting two different approaches to determine the same. This means, same values of exports should be taken into numerator and denominator while computing the refund amount. Thus, I find that the adjudicating authority has erred in the impugned order for computing the refund amount which is not proper and legal as per the Rule 89(4) of CGST Rules, 2017.

6. Further, the adjudicating authority in the Show Cause Notice dated 25.08.2022 pointed out as per para A3 that the appellant failed to upload 83 shipping bills. In response to the SCN, the appellant submitted reply dated 30.08.2022 and uploaded 83 shipping bills alongwith 3 Debit Notes issued during the respective period for which they have not generated shipping bills. While passing the impugned order, the adjudicating authority vide para 9.3 of impugned order mentioned that "*.... it is observed that claimant submitted copy of 73 shipping bills along with reply. All 73 shipping bills are verified and found in order. But claimant has not submitted copy of 6 shipping bills and copy of 3 debit notes .....*".

In this regard, I find the appellant has submitted all the 80 shipping bills alongwith 3 debit notes (for which shipping bill not generated by the appellant) in their reply dated 30.8.2022. I find that the copies of 6 shipping bills and 3 debit notes are submitted by the appellant with the appeal memorandum. Details are as under:

Sr No	S/B No.	Date	Port Code	Description/Goods / Services	FOB value in INR
1	4005590	09.11.2020	INMUN1	Export of goods under LUT	2922979
2	4005623	11.11.2020	INAMD4	--DO--	3034132
3	4005624	11.11.2020	INAMD4	--DO--	3188814
4	4005632	11.11.2020	INMUN1	--DO--	2584853
5	4005843	26.11.2020	INMUN1	--DO--	24961117
6	4006501	31.12.2020	INMUN1	--DO--	31259133
7	4004856	01.10.2020	INAMD4	Exports under LUT-Debit Note	177504009
8	4005106	15.10.2020	INMUN1	Exports under LUT-Debit Note	31899903
9	4005384	29.10.2020	INMUN1	Exports under LUT-Debit Note	29706913

On going through the same and in view of the above, I am of the opinion that the adjudicating authority has erred in counting Zero Rated Turnover by not considering the export value of these 6 shipping bills and 3 debit notes.

7. Further, the adjudicating authority in the impugned order pointed out that FOB value Rs.3,20,74,642/- is mentioned in Shipping Bill No. 4005384 dated 29.10.2020 as submitted by the appellant, while in the Statement-3, they have mentioned FOB value of Rs. 3,95,71,552/-. Hence, there is a difference of Rs. 74,96,910/- in FOB and claimed excess Zero Rated Turnover. In this regard, I find that the appellant has submitted their additional submission dated 30.6.2023 during the personal hearing held on dated 30.06.2023 that it was typographical error made by them while filing refund application. The appellant submitted that total FOB value Rs. 3,20,74,642/- of export supply vide S/B No. 4005384 dtd 29.10.2020 was claimed by them but inadvertently claimed FOB Rs. 3,95,71,553/- as the difference of FOB of Rs. 74,96,911/- was due to Shipping Bill No. 4005382 dated 29.10.2020 which was also filed on 29.10.2020. In support of this, the appellant has submitted copy of both the Shipping Bills viz., (i) 4005382 dated 29.10.2020 - FOB value Rs. 74,96,911/- and (ii) 4005384 dtd 29.10.2020 - FOB value Rs. 3,02,74,642/-.

From the additional submission made by the appellant and after examining the copy of both the shipping bills viz. (i) 4005382 dated 29.10.2020 and (ii) 4005384, dtd 29.10.2020, I find that combined FOB value of both the shipping bills comes to Rs.3,95,71,553/- and find that it is a typographical clerical error by the appellant while filing the refund application which has been accepted by them during the personal hearing. Hence, I am of the opinion that the same should be considered as typographical error of the

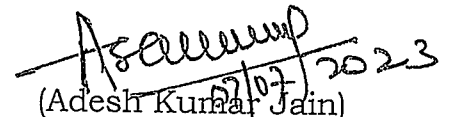
appellant by the adjudicating authority and on this ground their refund should not be rejected.

8. Considering the above facts, the *adjudicating authority* is hereby directed to process the refund application of the *appellant* afresh. The '*Appellant*' is also directed to submit all the relevant documents/submission before the *adjudicating authority*.

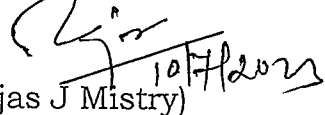
9. In view of above discussions, the *impugned orders* passed by the *adjudicating authority* is not legal and proper and accordingly, I allow the appeal of the "*Appellant*" and without going into the merit of all other aspects, which are required to be complied by the claimant in terms of Section 54 of the CGST Act, 2017 read with Rule 89 of the CGST Rules, 2017 to the above extent.

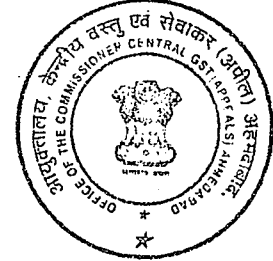
10. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

10. The appeals filed by the *appellant* stands disposed of in above terms.

  
(Adesh Kumar Jain)  
Joint Commissioner (Appeals)  
Date: .7.2023

Attested

  
(Tejas J Mistry)  
Superintendent (Appeals)  
Central Tax, Ahmedabad.  
By R.P.A.D.



M/s Amneal Pharmaceuticals Private Limited,  
15/16/17, Pharmaceuticals Special Economics Zone,  
Sarkhej Bavla Highway,  
Vill. Matoda, Ta-Sanand,  
Ahmedabad, Gujarat - 382 213

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

