



सत्यमेव जयते

आयुक्तकार्यालय
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)	फ़ाइल संख्या / File No.	GAPPL/ADC/GSTP/2247/2023 / 651९ - २५
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-CGST-002-APP-JC-56/2023-24 and 27.09.2023
(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	03.10.2023
(ङ)	Arising out of Order-In-Original No. ZJ2402230350072 dated 23.02.2023 passed by The Assistant Commissioner, CGST, Division-VI, Ahmedabad North Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Gity Technologies Private Limited (GSTIN: 24AAKCG0375M1ZD), C-703, Aditi Emperia, New S.G.Road, Opp. Vishwakarma Temple, Chandlodiya, Ahmedabad, Gujarat-382481

(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**BRIEF FACTS OF THE CASE:**

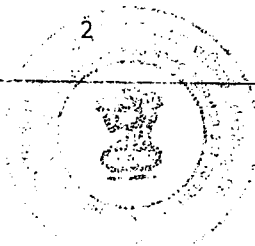
M/s. Gifty Technologies Private Limited, (GSTIN 24AAKCG0375M1ZD) C-703, Aditi Emperia, New S.G. Road, Opp. Vishwakarma Temple, Chandlodiya, Ahmedabad, Ahmedabad, Gujarat, 382481 [hereinafter referred to as "the Appellant"] have filed an appeal dated 22-05-2023 against Refund Order No. ZJ2402230350072 dated 23-02-2023 [hereinafter referred to as "impugned order"] passed by the Assistant Commissioner, CGST & C.Ex., Division-VI, Ahmedabad-NORTH [hereinafter referred to the "adjudicating authority"]

2. Facts of the case in brief, are that the Appellant is registered vide GSTIN 24AAKCG0375M1ZD is engaged in the business of supply of services of web development and other IT services outside the territory of India. They had filed an application in RFD-01 on 13-01-2023 for Refund claim of Rs.55,988/- under the category of "Export of service with payment of Tax" for the period October-2022. During the verification of the claim, it was found by the refund sanctioning authority that the address of the Principal Place of business of the Appellant is C-703, Aditi Emperia, New S.G.Road, Ahmedabad, Chandlodiya, GJAHM, Gujarat, 382481. As per the Trade Notice No.01/2017 dated 10-06-2017 issued by the Chief Commissioner, CGST & C.Ex, Ahmedabad Zone, the said address does not fall under the jurisdiction of the Refund Sanctioning authority i.e. Division-VI(SG Highway West), Ahmedabad North. Further as per GSTN Portal, The Tax payer is registered under Division-VII, SG Highway East, Ahmedabad North. Accordingly on account of the above, the adjudicating authority not being the jurisdictional proper officer for processing the subject refund claim, the same was liable to be rejected by the adjudicating authority.

3. Therefore the Appellant was issued a show-cause-notice as to why the entire amount of Refund claim of Rs.55,988/- should not be rejected.

4. The neither filed any defense reply nor appeared for the personal hearing. The adjudicating authority on account of the Principal place of Business of the Appellant being outside the jurisdiction of their office, rejected the refund Application of Rs.55,988/- filed by the Appellant under Section 54 of the CGST Act, 2017 read with Rule 89 of the CGST Rules, 2017 and issued RFD-06 accordingly.

5. Being aggrieved with the above impugned order of the adjudicating authority, the Appellant filed the present appeal on the following grounds:



"After migrating into the correct jurisdiction, we try to apply the refund again but GST Portal do not allow for reapplication for the same period where refund is rejected before"

PERSONAL HEARING:

6. Personal hearing in the matter was held on 28.08.2023, Shri Parth Sanghavi, Chartered Accountant appeared on behalf of the Appellant in the present appeal. During the Personal Hearing he submitted that the Refund application was rejected on the ground of claim filed with wrong jurisdictional Officer. Further, that they filed the claim and it has been allocated by GSTN, that they are not at fault and requested to allow the appeal and direct the jurisdictional officer to grant refund.

DISCUSSIONS AND FINDINGS:

7. I have gone through the facts of the case, available documents on record and written submissions made by the 'Appellant'. I find that the main issue to be decided in the instant case is:

(i) Whether the impugned refund order passed by the Adjudicating Authority due to jurisdictional issue can be bar to the Appellant in filing Refund application for the same period to the proper jurisdictional authority?

7.1 At the foremost, I observed that in the instant case the "impugned order" is of dated 23-02-2023 and the present appeal is filed online on 22-05-2023. As per Section 107(1) of the CGST Act, 2017, the appeal is required to be filed within three months time limit. Therefore, I find that the present appeal is filed within normal period prescribed under Section 107(1) of the CGST Act, 2017. Accordingly, I am proceeding to decide the case.

7.2 I find that the present appeal is filed by the Appellant for rejection of their Refund application in RFD-01 on 13-01-2023 for Refund claim of Rs.55,988/- under the category of "Export of service with payment of Tax" for the period October-2022 filed by them due to jurisdiction issue. Further, as the Appellant is re-mapped to correct jurisdiction i.e Range-IV, Division-VII, Ahmedabad-North Commissionerate, and when they tried to file refund application to the Correct jurisdictional Officer, the GST portal did not allow them for reapplication, for the same period as the refund is already filed and rejected before by the adjudicating authority.

7.3 I find that since the refund for Rs.55,988/- for the period October-2022 is rejected only for the reason of filing before the wrong jurisdictional proper Officer, and as the Appellant is re-mapped afterward to the correct



jurisdiction however, GST portal did not allow them to file the refund application for the same period, as the same has already been rejected once due to the above reason, I am of the view that the Appellant should be allowed to file the Refund claim as fresh for the above period before the proper jurisdictional authority after re-mapping.

8. In view of the above, I set aside the impugned order passed by the adjudicating authority and direct the Appellant to file the Refund application with Jurisdictional Officer for the period October-2022 which was rejected vide the impugned order. The Jurisdictional Refund Sanctioning authority shall process the Refund application accordingly.

9. Thus the appeal filed by the Appellant is allowed in above terms.

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

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

Asawari
27/09/2023

(ADESH KUMAR JAIN)
JOINT COMMISSIONER (APPEALS)
CGST & C.EX., AHMEDABAD.

Attested

Sunita D. Nawani
(Sunita D. Nawani)
Superintendent,
CGST & C.Ex.,
(Appeals), Ahmedabad



By R.P.A.D.

To:

M/s. Gity Technologies Private Limited, (GSTIN 24AAKCG0375M1ZD) C-703,
Aditi Emperia, New S.G. Road, Opp. Vishwakarma Temple, Chandlodiya,
Ahmedabad, Gujarat- 382481

Copy to:

1. The Principal Chief Commissioner of CGST & C.Ex., Ahmedabad Zone.
2. The Commissioner, CGST & C.Ex., Appeals, Ahmedabad
3. The Commissioner, CGST & C.Ex, Ahmedabad-North Commissionerate.
4. The Additional Commissioner (Systems) CGST & C.Ex, Ahmedabad-North Commissionerate.
5. The Deputy/Assistant Commissioner, CGST & C.Ex. Division-VI and VII Ahmedabad-North Commissionerate.
6. The Superintendent (Systems), CGST Appeals, Ahmedabad, for publication of the OIA on website.
7. Guard File/ P.A. File.

