



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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DIN NO.: 20240464SW0000510885

(क)	फाइल संख्या / File No.	GAPPL/ADC/GSTP/1902/2024 / 3992 - 98
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-CGST-002-APP-JC-1/2024-25 and 10.04.2024
(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	12.04.2024
(ङ)	Arising out of Order-In-Original No. ZL2411230335882 dated 29.11.2023 passed by The Assistant Commissioner, CGST, Division-Junagadh, Bhavnagar Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Rakesh Mansukhbhai Dobariya (Clothing Hub) (GSTIN: 24BFVDP4506D1ZP) H-1103, Savvy Swaraj-2, Nr Railway Crossing, Godrej Garden City, Jagatpur, Ahmedabad, Gujarat-382470



(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 <u>twenty five per cent</u> 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-APPEALBRIEF FACTS OF THE CASE:

M/s. Rakesh Mansukhbhai Dobariya, (Clothing Hub) (GSTIN 24BFVDP4506D1ZP), H-1103, SAVVY SWARAJ-2, NR RAILWAY CROSSING, Godrej Garden City, Jagatpur, Ahmedabad, Gujarat, 382470 [hereinafter referred to as "the Appellant"] have filed an appeal against Refund Order No. ZL2411230335882 dated 29-11-2023 [hereinafter referred to as "impugned order"] passed by the Assistant Commissioner, CGST Division Junagadh, Bhavnagar Commissionerate [hereinafter referred to the "adjudicating authority"]

2. Facts of the case in brief, are that the Appellant is registered vide GSTIN 24BFVDP4506D1ZP. They had filed an application in RFD-01 on 05-09-2023 for Refund claim of Rs.3,89,129/- under the category of "Export of service with payment of Tax" for the period April-2022 to September-2022. On examination, it was found by the refund sanctioning authority /proper Officer that :

"Refund application is liable to be rejected on account of the following Reasons: On verification of the Refund claim, it is observed that the Principal business of the GSTIN 24BFVDP4506D1ZP is in Ahmedabad. The Refund claim filed is beyond the Jurisdiction of the proper officer/ competent authority."

The adjudicating authority found as under and passed the impugned

The Principal business of the GSTIN 24BFVDP4506D IZP is in Ahmedabad. The Refund claim filed is beyond the Jurisdiction of the proper officer/ competent authority. The claimant vide aforesaid letter submitted that his Jurisdiction was in Junagadh upto March – 2023 and then shifted his business to Ahmedabad. However, it is to mention that current jurisdiction of the claimant is in Ahmedabad.

The jurisdiction of the claimant is outside the Jurisdiction of the competent authority i.e. The Assistant Commissioner, Central GST Division, Junagadh. The competent authority cannot sanction the Refund claim beyond his Jurisdiction. In view of the above the claim is liable to be rejected."

"I hereby reject the refund claim of Rs.3,89,129/- under sub-section (5) of Section 54 of the CGST Act, 2017 to M/s Rakesh Mansukhbhai Dobariya (GSTIN 24BFVDP4506D1ZP)".

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

"There was never intention of non-compliance from our side.

Proper Officer

Proper Officer's observation that Assesse has filed application beyond Jurisdiction, thus i can reject the application, but I also emphasize that there is no option available from Assesse's side to select Jurisdiction while refunding application. I Hereby inform you that GST portal Distribute application as auto Distribution Mode while refund application, if Its auto distribute to another Jurisdiction than its not matter of Assessee, but according to GST Guidelines and Procedure Proper Officer i.e. Assistant Commissioner or Deputy Commissioner must transfer the application to Correct Jurisdiction.

I further inform you that if the relevant officer lacks jurisdiction, the proper officer has no right to reject the application under the GST Act, 2017. Because office has not right to accept than why Proper officer has entertain application? In our instance, it signifies a violation and contravention of GST Act provisions. Even while filing clarification in response to show cause notice.

Now I appeal to claim my GST refund along with interest on refund according to Section 54 or 56 of CGST/IGST/SGST Act, 2017.

The learned GST Officer has not mentioned any technical/logical grounds within the GST Laws which makes this refund ineligible.

The Grant of Appeal will also result in Time and Cost saving of duplication of efforts for the GST refund amount.”

PERSONAL HEARING:

Personal hearing in the matter was held virtually on 08.04.2023, Sh. Shital Parth Patel, Chartered Accountant appeared on behalf of the Appellant in the present appeal. It has been submitted that their claim was rejected on the ground of jurisdiction, since they have changed their Principal Place of Business. Further, that they applied it in time but due to technical glitch, the refund application was marked to Old jurisdiction and rejected by the JAC. They are not at any fault and in view of the above, requested to allow the appeal.

DISCUSSIONS AND FINDINGS:

6. I have gone through the facts of the case and written submissions made by the 'Appellant'. I find that the main issue to be decided in the instant case is:

Whether the impugned refund order passed by the Adjudicating Authority due to jurisdictional issue, is proper or otherwise?

6.1 At the foremost, I observe that in the instant case the "impugned order" is of dated 29-11-2023 and the present appeal is filed online on 10-01-2024. 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.

6.2 I observe that the present appeal is filed by the Appellant for rejection of their Refund application in RFD-01 on 29-11-2023 for Refund claim of Rs.3,89,129/- under the category of "Export of service with payment of Tax" for the period April-2022 to September-2022 filed by them, due to jurisdiction issue. The appellant had filed refund application on 05-09-2023. The registered office at Bagdau- Junagadh was till 31.03.2023, thereafter they have shifted to Ahmedabad and their principal place of business is under the jurisdiction of Division-VII of Ahmedabad-North Commissionerate. They have been granted registration certificate with principal place of business at Ahmedabad on 20.04.2023, however, while filing the subject refund application, the same instead of showing with the jurisdiction of the appellant at Ahmedabad, has been shown in Portal to the old jurisdiction i.e. Junagadh Division. Therefore, as per my knowledge the mapping of proper and correct jurisdiction of the appellant, in common portal was lacking at the time of filing refund application.

6.3 I observe that the refund for Rs.3,89,129/- under the category of "Export of service with payment of Tax" for the period April-2022 to September-2022 is rejected under sub-section (5) of Section 54 of the CGST Act, 2017 in spite of the fact that the refund applied for by the appellant was with the wrong jurisdictional authority.

6.4 I refer the relevant provisions of the CGST Act, 2017 which are as under:

Section 54. Refund of tax.- *

(5) If, on receipt of any such application, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order accordingly and the amount so determined shall be credited to the Fund referred to in section 57.

*** Section 57. Consumer Welfare Fund.-**

The Government shall constitute a Fund, to be called the Consumer Welfare Fund and there shall be credited to the Fund,-

(a) the amount referred to in sub-section (5) of section 54;

*.....
in such manner as may be prescribed.*

6.5 I observe that the adjudicating authority has in its findings observed that Jurisdiction of the claimant is outside the jurisdiction of the competent authority i.e. the Assistant Commissioner Central GST Division cannot sanction the Refund claim beyond his jurisdiction and therefore the claim is liable to be rejected.

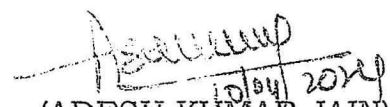
6.6 From the foregoing, I observe that the order rejecting the refund of Rs.3,89,129/- as per the provisions of Section 54(5) of the CGST Act, 2017 without proper reasoning on the merit of the case, by the adjudicating authority, that too beyond his jurisdiction, is not proper and Legal. Therefore, I am of the view that the Appellant should be given an opportunity to file the Refund claim as fresh for the above period before the proper jurisdictional authority, after re-mapping to the correct jurisdiction.

7. 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 afresh with current Jurisdictional Officer for the period April-2022 to September-2022 which was rejected vide the impugned order. The Jurisdictional Refund Sanctioning authority shall process the Refund application accordingly.

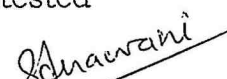
8. Thus the appeal filed by the Appellant is allowed in above terms.

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

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


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

Attested


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



By R.P.A.D.

To:

M/s. Rakesh Mansukhbhai Dobariya, (Clothing Hub),
H-1103, SAVVY SWARAJ-2, NR RAILWAY CROSSING,
Godrej Garden City, Jagatpur, Ahmedabad, Gujarat, 382470.
(GSTIN 24BFVDPD4506D1ZP)

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-VII Ahmedabad-North Commissionerate.
6. The Superintendent (Systems), CGST Appeals, Ahmedabad, for publication of the OIA on website.
7. ~~Guard File/ P.A. File.~~

