



सत्यमेव जयते

आयुक्तकाकार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeal Ahmedabad Commissionerate
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ीअहमदाबाद ३८००१५.
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(क)	फ़ाइल संख्या / File No.	GAPPL/ADC/GSTP/2166/2024 / 5744 - 50
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-CGST-002-APP-JC-18/2024-25 and 20.05.2024
(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	20.05.2024
(ङ)	Arising out of Order-In-Original No. ZH2402240266095 dated 15.02.2024 passed by The Assistant Commissioner, CGST, Division-IV, Ahmedabad-North Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Sahjanand Poly-Tex (GSTIN: 24ABOFS4952J1ZO), Plot No. 405, Paiki 2, Changodar Estate, Nr. Shanker Ayurvedik, Sarkhej Bavla Road, Changodar, Ahmedabad, Gujarat-382213



	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. SAHJANAND POLY-TEX (GSTIN-24ABOFS4952J1ZO) having principal place of business at plot No. 405 , paiki 2, changodar estate, nr. shanker ayurvedik, sharkhej bavala road, changodar, Ahmedabad, Gujarat, 382213 (hereinafter referred to as the "Appellant") have filed appeal against Refund Order No.ZH2402240266095 dated 15.02.2024 (herein after referred as the "impugned order") passed by the Assistant Commissioner, CGST & C.Ex., Division IV, Ahmedabad-North Commissionerate, Ahmedabad (hereinafter referred to as *the 'adjudicating authority'*).

2. Brief facts of the case are that appellant had filed Refund application vide AR No.AA240124001789F dated 01.01.2024 for the tax period July-2023 to September-2023 for an amount of Rs.5,70,759/- in respect of "ITC accumulated due to Inverted Tax Structure " under RFD-01. During the verification of refund claim, it was found that Turnover of Inverted Rated Supply and Adjusted Total Turnover was mentioned as Rs.17,14,619/- and Rs.17,18,319/- respectively in RFD-01, however, as per GSTR-1, inverted Rated Supply was found to be Rs.16,38,479/- and as per GSTR-3B, Adjusted Total Turnover was found to be Rs.24,82,311/- which was required to be considered for the calculation of refund claim.

3. Hence a Show-cause-notice dated 15.01.2024 was issued to the appellant as to why *"the refund claim of Rs.2,18,423/- should not be rejected"*.

3. The adjudicating authority on the basis of submissions made/documents uploaded by the appellant, passed the following vide the impugned order:

" I sanction refund of Rs.3,68,708/- and reject refund of Rs.2,02,051/- filed by M/s Sahjanad poly-Tex, Plot No.405,Paiki 2, Changodar Estate, Nr. Shanker Ayurvedik, Sarkhej Bavla Road, Changodar, Ahmedabad Gujarat 382213 and RFD-06 is being issued in AIO".

4. Being aggrieved with the impugned order, the Appellant filed the present appeal on 11.03.2024 on the grounds that:

- That the impugned Order is patently against law, contrary to the facts, unjust, and erroneous.
- It is submitted that B2C sales of FY 2022-23 was reported in (GSTR 9 FY 2022-23 Pt. V (Particulars of the transactions for the financial year declared in returns of the next financial year till the specified period) and the same was uploaded and paid in Sep 2023 GSTR 3B should be reduced from Adjusted Total Turnover of Q2 FY 2023-24 of Rs.24,82,311/- as computed by Adjudicating Authority.

➤ Accordingly, the refund amount should be recalculated accordingly. The appellant have further prayed to set aside the impugned order with consequential relief.

5. Personal Hearing:

Personal Hearing in the matter was held virtually on 26.04.2024, wherein Shri Ajaykumar Jagdishbhai Patel, Chartered Accountant appeared on behalf of the 'Appellant' as Authorized Representative before the appellate authority. It has been submitted that short payment for 2022-23 was done in September-2023. in GSTR-3B. Therefore, the same has been taken in adjusted total turnover. This has been mentioned in GSTR-9/9C and the refund sanctioning authority passed less refund. They further reiterated the written submissions and requested to allow appeal.

6 Discussion and Findings:

6.1. I have carefully gone through the facts of the case and the submissions made by the Appellant and observe that the, appellant are mainly contesting with, that the value of B2C sales pertaining to the period of previous financial year remained to be shown in Returns of 2022-23 and shown in GSTR-9 of 2022-23 were shown in Return for the month of September-2023 has to be deducted from the total adjusted turnover while calculating the refund for the period July-September-2023.

6.2 So the issue to be decided in the present appeal is:

Whether the order passed by the adjudicating authority is proper or otherwise?

6.3 At the foremost, I observe that in the instant case the "impugned order" is of dated 15.02.2024 and the present appeal is filed online on 11.03.2024. 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.

6.4 I observe that the present appeal is filed by the Appellant for rejection of refund of Rs.2,02,051/- as the adjusted total turnover shown by the appellant in Annexure-B was shown less as compared to that shown in GSTR-3B of the relevant period i.e. July-September-2023.

6.5 I therefore, refer relevant sections of CGST Act, 2017 which are reproduced here under:

“Rule 89. Application for refund of tax, interest, penalty, fees or any other amount.-

⁸[(5) In the case of refund on account of inverted duty structure, refund of input tax credit shall be granted as per the following formula:-

Maximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC Adjusted Total Turnover} - ¹²{tax payable on such inverted rated supply of goods and services x (Net ITC ÷ ITC availed on inputs and input services)}].

Explanation: - For the purposes of this sub-rule, the expressions -

(a) "Net ITC" shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and

⁹["Adjusted Total turnover" and "relevant period" shall have the same meaning as assigned to them in sub-rule (4).]

As per sub-rule(4)

⁵[(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.]

"Relevant period" means the period for which the claim has been filed.

6.6 The adjudicating authority has found that the appellant have not taken the value of adjusted total turnover shown in GSTR-3B of the relevant period of refund. In this regard, it is observed that, the relevant period as per Rule 89 (5) (F) means the period for which the claim has been filed. However, the contention of the appellant is that the amount of Rs.763991.75/- B2C sales of FY 2022-23 was shown in GSTR-9 of 2022-23 and the same was uploaded and paid in September-2023 GSTR-3B should be reduced from Adjusted Total Turnover of July to September-2023 of Rs.24,82,311/- as the same pertains to the period of previous FY. In this regard, I observe that though the amount of Rs.763991.75/- does not pertain to the period of refund applied for, however, it is not forthcoming whether the said amount was taken into consideration for the refund sanctioned for the relevant period to which the said amount pertains. If the said amount is not shown in the GSTR-3B of the relevant period of FY 2022-23, then it is obvious that the said amount would have been missed to be taken in the total adjusted turnover of the relevant period, therefore I am of the view that the said amount should be considered to be taken in Adjusted Total Turnover in the present case of refund for the period July-September-2023. The only concern is that the said value should not skip from the total



adjusted turnover for the calculation of refund to avoid double benefit to the appellant, if it is not taken in either of the periods. Further, as per Rule 89, if the Net ITC availed during the relevant period is taken as per GSTR-3B, then the total adjusted turnover should also be taken as per GSTR-3B of the relevant period (which includes figures of 22-23 in the present case), otherwise the amount of sales pertaining to 2022-23 which is skipped to be shown in GSTR-3B of that particular period would never be reflected in total adjusted turnover of any period. So in my opinion, all sales figures shown in GSTR-3B should form the part of total turnover for the relevant period.

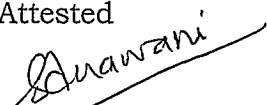
7. In view of the above, I do not find any infirmity in the order passed by the adjudicating authority and the same is found to be Legal and proper and thus upheld.

8. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।
8. The appeal filed by the appellant stands disposed of in above terms.


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

Date: .05.2024.

Attested


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

By R.P.A.D.

To:

SAHJANAND POLY-TEX, Plot No. 405 , paiki 2, Changodar Estate,
Nr. shanker ayurvedik, sharkhej bavala road,
changodar, Ahmedabad, Gujarat, 382213.
(GSTIN-24ABOFS4952J1ZO)

Copy to:

1. The Principal Chief Commissioner of CGST & C.Ex., Ahmedabad Zone.
2. The Commissioner, CGST & C.Ex., Appeals, Ahmedabad
3. The Pr./Commissioner, CGST & C.Ex, Ahmedabad-NorthCommissionerate.
4. The Additional Commissioner (System), Ahmedabad-NorthCommissionerate.
5. The Dy./Assistant Commissioner, CGST & C.Ex., Division-IV, Ahmedabad North Commissionerate.
6. The Superintendent (Systems), CGST Appeals, Ahmedabad, for publication of the OIA-on website.
17. Guard File/ P.A. File.

