



सत्यमेव जयते

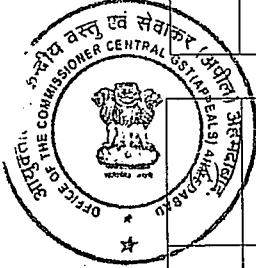
आयुक्तकाकार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeal Ahmedabad Commissionerate
जीएसटी भवन, राजस्व मार्ग, अम्बावाडी अहमदाबाद ३८००१५.
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(क)	फ़ाइल संख्या / File No.	GAPPL/ADC/GSTP/2055/2024 / 5236-43
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-CGST-002-APP-JC-19/2024-25 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. 04/DEM/Superintendent/23-24/AKS dated 05.01.2024 passed by The Superintendent, CGST, Range-IV, Division-II, Ahmedabad-North Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Sukhdevsingh Vasudev Singh Chouhan (Trade Name: Superior Investigation & Protection Force) (GSTIN: 24ACRPC6133H2ZP), Second Floor, 7, V.K. Complex, Near Manglam Arcade, Odhav, Ahmedabad, Gujarat-382415



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) <u>Full amount of Tax, Interest, Fine, Fee and Penalty</u> 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 SUKHDEV SINGH VASUDEV SINGH CHOUHAN (Trade Name: Superior Investigation & Protection Force) (GSTIN-24ACRPC6133H2ZP) having principal place of business at SECOND FLOOR, 7, V. K. COMPLEX, NEAR MANGALAM ARCADE, ODHAV, Ahmedabad, Gujarat, 382415 (hereinafter referred to as the "Appellant") have filed appeal against OIO No.04/DEM/Superintendent/23-24/AKS dated 05.01.2024 issued by the Superintendent, Central GST, Range-IV, Division II (Naroda Rd.), Ahmedabad-North Commissionerate, Ahmedabad (herein after referred as the "impugned order").

2. Brief facts of the case are that the Appellant are registered under GSTIN-24ACRPC6133H2ZP and engaged in the business of providing Security and manpower service and paying GST. On the basis of intelligence gathered that some of the service providers of Security & Man Power Supply services were indulged in evasion of GST by way of suppression of true taxable value in their GST Returns. During verification of GSTR- 03 for the period from March-2018 to April-2019, it was noticed that the appellant had made the payment of GST belatedly and no interest thereon was paid. Therefore letter dated 20.10.2021 was issued intimating the late payment of GST and interest of Rs.31,029/- liable for payment. However, as per the appellant the interest liability for delayed payment was Rs.10,106/- only. The appellant submitted the calculation chart showing their interest liability of Rs.10,106/- along with the DRC-03 making payment of interest of Rs.10,107/-. On scrutiny and reconciliation of the calculation submitted by the appellant in the Electronic Cash Ledger maintained by the appellant, it appeared that they had calculated their interest liability from the date of deposit/ credit of amount of GST in their Cash Ledger. As per Section 49 (1) of the CGST Act, 2017, tax payers are required to deposit amount towards tax, interest, penalty fee or any other amount in their electronic cash ledger. Therefore, a show-cause-notice was issued to the appellant, by DGGI AZU, Ahmedabad asking them as to why:-

"The interest amounting to 31,029/- should not be demanded and recovered from them for the delayed payment of GST during the period March-2018 to April-2019 under Section 49 and 50 of CGST Act, 2017 and amount of Rs.10,017/- should not be appropriated against the total outstanding interest amount of Rs. 31,029/-."

3. The Adjudicating authority vide the impugned order dated 05.01.2024 passed the following order:

" I hereby confirm the demand of Rs. 31,029/- under Section 50 read with Section 49 of the CGST Act, 2017 in respect of M/s Superior Investigation & Protection Force, 7, 2nd Floor, V. K. Complex, opp. Gurudwara, Odhav Ahmedabad. The said tax payer has paid the interest to the tune of Rs. 10,107-. I hereby appropriate the said amount to the tune of Rs.10,107/- against the confirmed demand of interest."

4. The appellant, being aggrieved from the above order dated 05.01.2024, filed the present appeal on 23.02.2024 on the grounds that:

"We have paid interest on tax as per the calculation and also submitted the calculation Sheet. But from department side they ask to pay additional amount of interest on tax. Kind request you to delete the Demand."

Personal Hearing:

5. Personal hearing in the present appeal was held on 17.05.2024. Shri Rajkumar Yadav, Chartered Accountant and authorized representative of the appellant appeared for personal hearing before this authority. He reiterated the written submissions and requested to allow appeal as they have deposited tax in Cash Ledger but not filed GSTR-3B. Since tax is deposited, their appeal may be allowed.

6 Discussion and Findings:

6.1. I have carefully gone through the facts of the case and the submissions made by the Appellant in their grounds of appeal and observe that the Appellant is mainly contesting with the impugned order confirming the of interest of Rs. 31,029/- under Section 50 read with Section 49 of the CGST Act, 2017.

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

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

6.3 At the foremost, I observed that in the instant case the "impugned order" is of dated 05.01.2024 and the present appeal is filed on 23.02.2024. As per Section 107(1) of the CGST Act, 2017, the appeal is required to be filed within three months time limit. I observed that in the instant case the appeal has

been filed within normal period prescribed under Section 107(1) of the CGST Act, 2017. Accordingly, I am proceeding to decide the case.

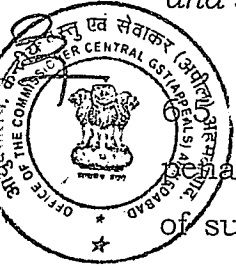
6.4 I observe that, the appellant has contested that they have paid interest on tax as per the calculation submitted by them, however, the department is asking to pay additional amount of interest on tax. It is observed that the appellant has paid interest on the basis of amount deposited in the electronic Cash ledger. Therefore I refer the following provisions of the CGST Act, 2017:

***Section 49. Payment of tax, interest, penalty and other amounts.-**

(1) *Every deposit made towards tax, interest, penalty, fee or any other amount by a person by internet banking or by using credit or debit cards or National Electronic Fund Transfer or Real Time Gross Settlement or by such other mode and subject to such conditions and restrictions as may be prescribed, shall be credited to the electronic cash ledger of such person to be maintained in such manner as may be prescribed.*

(2).....

(3) *The amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed.*




From the above it is very much clear that Deposits towards tax, interest, penalty, fee or any other amount shall be credited to the electronic cash ledger of such person to be maintained and the amount available in the electronic cash ledger may be used for making any payment towards tax, interest, penalty, fees or any other amount payable under the provisions of this Act or the rules made thereunder in such manner and subject to such conditions and within such time as may be prescribed. Thus the amount deposited in the Electronic Cash Ledger can be used for any purpose viz. payment of tax, interest, late fee etc. Unless the amount under any head required to be paid from the Electronic Cash Ledger is debited from the Electronic Cash Ledger, the same is not considered to be paid towards such payment. Hence, in the present case though the appellant had deposited the amount in the Electronic Cash Ledger, however paid the amount of GST by debiting in Electronic Cash Ledger at a later date. Therefore, the interest to be paid for delayed payment of GST would require to be calculated from the date of payment/debit from the Electronic Cash Ledger maintained by them and not from the date of deposit in the Electronic Cash Ledger. As making deposit and payment towards liability are two different entries in the ledger.

6.6 Therefore, contention of the appellant that they have paid interest, which is counted from the date of deposit of the amount in Electronic Cash Ledger, is not proper in accordance with the provisions of law ibid. The impugned order passed by the adjudicating authority, confirming the demand of interest of Rs.31,029/- under Section 50(1) of the CGST /SGST Act, 2017 and appropriating the amount of interest of Rs.10,107/- already paid by the appellant, is proper and legal.

7. In view of the above discussions and findings, I do not find any infirmity in the order passed by the adjudicating authority. Therefore the impugned order is upheld.

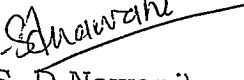
8. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

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:

M/s SUKHDEVSINGH VASUDEVSINGH CHOUHAN
(Trade Name: Superior Investigation & Protection Force)
SECOND FLOOR, 7, V. K. COMPLEX,
NEAR MANGALAM ARCADE, ODHAV,
Ahmedabad, Gujarat, 382415 (GSTIN-24ACRPC6133H2ZP).

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-North Commissionerate.
4. The Additional Commissioner (Systems) CGST & C.Ex., Ahmedabad-North Commissionerate.
5. The Dy./Assistant Commissioner, CGST & C.Ex., Division-II, Ahmedabad North Commissionerate,
6. The Superintendent, CGST & CEX. Range-IV Division-II, Ahmedabad-North.
6. The Superintendent (Systems), CGST Appeals, Ahmedabad, for publication of the OIA on website.
- ~~7. Guard File/ P.A. File.~~

