



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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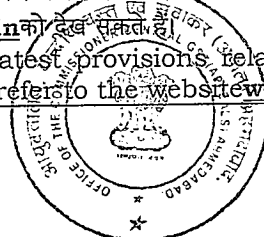


By Regd. Post

DIN NO.: 20240564SW0000003900

(क)	फ़ाइल संख्या / File No.	GAPPL/ADC/GSTP/1943/2024 / 5251 - 58
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-CGST-002-APP-JC-20/2024-25 and 21.05.2024
(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	21.05.2024
(ङ)	Arising out of Order-In-Original No. CGST/WT0705/NGB/03/2023-24 dated 29.12.2023 passed by The Superintendent, CGST, Range-V, Division-VII, Ahmedabad-North Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Piyush Bhanvarlal Modi (Trade Name: Manglam Meditech) (GSTIN: 24CQLPM3407Q1ZD), GF, Shop No. 14, Block-A, Raj Residency, Opp. Abhishek Aparatment, Ganesh Kanya Vidyalay, Nava Wadaj, Ahmedabad, Gujarat-380013

(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) <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 Piyush Bhanvarlal Modi (Trade Name: Manglam Meditech)(GSTIN-24CQLPM3407Q1ZD) having principal place of business at GF, Shop No. 14, Block-A, Raj Residency, Opp. Abhishek Apartment, Ganesh Kanya Vidyalay, Nava Wadaj, Ahmedabad, Gujarat -380013 (hereinafter referred to as the "Appellant") has filed appeal against OIO No.CGST/WT0705/NGB/03/2023-24 dated 29.12.2023 issued by the Superintendent, Central GST, Range-V, Division VII, 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-24CQLPM3407Q1ZD and engaged in the business of trading of pharmaceuticals products. It is observed that the appellant have claimed Input Tax Credit in their GSTR-3B return after due date as prescribed under Section 16(4) of CGST Act, 2017 and corresponding section of SGST Act, 2017. The details are as under:

Tax period	Due dt of claiming ITC u/s 16(4)	Total ITC availed after the time limit prescribed u/s 16(4)			
		IGST (Rs.)	CGST(Rs.)	SGST(Rs.)	Total(Rs.)
July-17 to March-18	23.04.2019	47470	299629	299629	646728
2018-19	20.10.2019	0	0	0	0
2019-20	20.10.2020	0	0	0	0
2020-21	20.10.2021	0	0	0	0
Total		47470	299629	299629	646728

Thus, it appeared that the appellant had contravened the provisions of Section 16(4) of CGST Act, 2017 in the manner that they had claimed ITC beyond the due date of filing GSTR-3B return as tabulated above and hence ITC total amounting to Rs.646728/- appeared to be irregularly availed as per provisions of Section 16(4) of the CGST Act, 2017. Therefore, appellant were issued Show Cause Notice No. CGST/WT0705/2/2023-24 dated 23.06.2023 to show cause as to why:-

"(i) Wrongly/excess availed/claimed ITC amounting to Rs.6,46,728/- (Six Laks Forty Six Thousand Seven Hundred Twenty Eight Only) (IGST Rs.47,470/-, CGST Rs.2,99,629/-,SGST: Rs.2,99,629/-) for the period 2017-18 should not be demanded and recovered from them under Section 74(1) of CGST Act, 2017 read with corresponding provisions of GGST Act, 2017 and IGST Act, 2017.

(ii) Interest as applicable should not be demanded and recovered from them under section 50 of CGST Act, 2017 read with corresponding provisions of GGST Act, 2017 and IGST Act, 2017 on the Goods & Service Tax so demanded in (i) above.

(iii) Penalty should not be imposed upon the Noticee under section 122(2) (b) read with 74 of the Act 2017 & corresponding provisions of GGST Act, 2017 and IGST Act, 2017 for the tax not paid or short-paid or where the input tax credit has been wrongly availed or utilized, in respect of Goods & Service Tax so demanded in (i) above.”

3. The Adjudicating authority vide the impugned order dated 29.12.2023 passed the following order:

“i) I confirm the demand of Rs.6,46,728/- (Six Laks Forty Six Thousand Seven Hundred Twenty Eight Only) (IGST Rs. 47,470/-, CGST Rs 2,99,629/-,SGST: Rs.2,99,629/-) for the period 2017-18 under the proviso to Section 74(1) of the CGST Act, 2017 read with corresponding provisions of GGST Act, 2017 and IGST Act, 2017.

(ii) I confirm the amount of Interest as applicable under section 50 of CGST Act, 2017 read with corresponding provisions of GGST Act, 2017 and IGST Act, 2017 on the Goods & Service Tax so demanded in (i) above.

(iii) I impose penalty of Rs.6,46,728/- under section 122(2) (b) read with 74 of the Act 2017 & corresponding provisions of GGST Act, 2017 and IGST Act, 2017.”

The appellant, being aggrieved from the above order dated 29.12.2023, filed the present appeal online on 13.02.2024 and submitted the documents on 21.02.2024 on the grounds that:

“A.1 At the outset, the appellants submitted reply against the manual notice but Assistant commissioner passed an order against such notice. Being the first year after introduction of new act out of natural justice please consider our returns late filed and grant us ITC claimed in such returns.

A.2 The appellant prayed (prays) for waiver of Tax, interest and penalty it would cause unintended hardship on assessee and might threaten the very existence of business.”

The appellant vide letter dated 10.05.2024 submitted following revised grounds:

“Ground No.1:-Notice issued u/s 74(1) dated.23.06.2023 and order passed u/s 74(9)dated. 29.12.2023 are bad in law as condition precedent to issue notice u/s74(1) is not fulfilled in the present case.

3.1 The appellant most humbly submits that he was issued show cause notice u/s 74(1) for reversal of the above input tax credit allegedly claimed in violation of the provision of Section 16(4) of the Act. Now, as per the provision contained in Section 74, the adjudicating authority is required to fulfill the condition of wilful misstatement, suppression or deliberate attempt on part of the appellant to making wrong claim of input tax credit u/s 16 of the Act.

3.2 in short if we summarise the whole provision contained in Section 74(1) in sentence then it provides for deliberate act on the part of assessee to suppress the fact of the case so as to escape the levy for invocation of said provision. In this regard, assessee would like to draw your good self's attention to decision of Hon'ble Supreme Court in case of Collector Vs. Chemphar Drugs :1989 AIR SC 832 wherein it was held that mere inaction or failure on part of manufacture will not amount to suppression of facts. Conscious or deliberated withholding of the information when the manufacturer knew otherwise is required to be established before saddling the manufacturer with the liability of suppression of facts.

...

The reference in this regard is also made to the latest judgement of Hon'ble Supreme Court in case of THE COMMISSIONER, CENTRAL EXCISE AND CUSTOMS AND ANOTHER Vs. M/S RELIANCE INDUSTRIES LTD reported in (2023) Live law (SC) 512.

3.3 Now if we scrutinized the case of appellant on the touch stone set by Hon'ble Supreme Court then your honours would find that the necessary criteria to invoke provision of section 74(1) is not fulfilled . As on perusal of Order in Original, it can be seen that the same has been issued/passed on the basis of return filed by the appellant and available with the department. No new material came on record which was not available with the department for issuance of notice before the extended period of limitation. It is trite law that the information which was within the reach of department within the normal period of limitation cannot be considered as new information. The assessee cannot be held guilty of suppression if the department is already aware about such claim from the very first date of filing of GST Return, The appellant himself has claimed this Input Tax Credit in GSTR-3B which is available with the department so appellant cannot be charged with the allegation of suppression of taxable transactions and deliberate attempt to evade the payment of Tax.

3.4 Moreover, in the present case, the appellant is under bona fide belief that appellant can claim Input Tax Credit beyond period prescribed in section 16(4) as the time limit prescribed under section 16(4) is directory only and there are other possible interpretation in his favour as discussed and relied upon in later paragraph of this submission. Hence, for this reason Order in Original passed u/s 74(9) is bad in law and legally untenable.

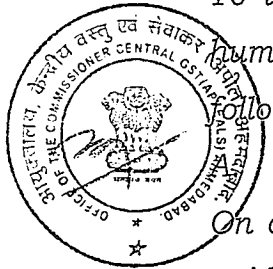
3.5 in view of the above discussion, invocation of provision of Section 74 in the case of appellant is unjustifiable and may kindly be declared as illegal invocation and consequently present Order in Original may kindly be declared as Illegal and Void ab initio.

Ground No.2:- Ld. State Tax Officer erred in law and on facts in disallowing Input Tax Credit of Rs. 6,46,728/- u/s 16 of CGST/GGST/IGST Act, 2017 by passing order under section 74 of the GGST/CGST Act, 2017 dated.29.12.2023, without appreciating facts and law of the case properly.

4.1 The appellant most humbly submits that appellant has claimed input tax credit on the basis of tax invoices received on receipt of supply and payment was duly been made to the supplier within the time prescribed under the Act. Neither the receipt of Supply nor documentary evidences was found to be deficient in the present case. Only because of alleged violation of Section 16(4), the appellant was denied the Input Tax Credit. The appellant has also provided entries in the books of account at time of receipt of supply and only return filing under GST was delayed due to latches on the part of accountant on implication of newly introduced GST provisions. Thus, it is most humbly submitted that claim of the appellant is in order and the same cannot be denied only due to minor delay of 10 to 21 days in filing GST Returns in FORM 3B. The appellant further most humbly submits that his claim of Input Tax Credit is perfectly in order in view of following grounds:-

Section 16(4) is prescribed time limit for only taking Credit:-

On close perusal of provision contained in Section 16(4), it can be seen that the said provision talk about the restriction on taking input tax credit after the prescribed period. Now, if the entire scheme of the Goods and Service Act, 2017, is closely perused than it can be seen that Taking and availment of Input Tax Credit is three staged process, the first stage would be taking the such credit by making entries, in the books of account and after taking credit, the same must be availed by filing GST Return and on availing the same, the input tax credit is reflected in Electronic Credit Ledger. On credit of Input Tax Credit in Electronic Credit Ledger, the registered tax payer is become entitled to utilize the same. Thus, Section 16(4) is only providing restriction on taking of input tax credit beyond prescribed time and there is no restriction on availment of Input Tax Credit which is to be done by filing GSTR-3B. The Adjudicating authority has mixed up the concept of taking credit with the availment of tax credit and without properly appreciating the difference has denied the input tax credit. The appellant relied on the para 33 to 35 of Judgement of Hon'ble Supreme Court in case of Union of India Vs. Bharti Airtel Ltd. reported in (2021) 131 taxmann.com 319(SC)



to support the above mentioned stand. Thus, it is most humbly submitted that action of the adjudicating authority to deny the claim on citing alleged violation of Section 16(4) is devoid of any merit and legally unsustainable. Accordingly, it is prayed that aforesaid denial of input credit of Rs.6,46,728/- may kindly be reversed by allowing the appeal of the appellant.

B. *Input Tax Credit in Vested Right and the same cannot be snatched away on minor lapse in observing procedural provision:-*

The appellant most humbly submits that an object of the introduction of Goods and Service Tax is removing cascading effect on supply of goods and services. Thus, to fulfil the aforesaid object, the legislature has provided right to claim input tax credit under Section 16(i) of the Act. Thus, any interpretation which is defeating the very object of the introduction of Goods and Service Taxes should be avoided. Reference in this regard may be made to judgement of Hon'ble Supreme Court in case of K.P Varghees Vs. ITO reported in (1981) 131 ITR 597. Thus, in humble submission of the appellant, provision of Section 16(4) interpreted in the manner which nullify the very object of the provision and hence, it is most humbly submitted that Input Tax Credit is vested right of the tax Payer and the same cannot be taken away on minor procedure laps in filing GST Returns. It is trite that substantive right must prevail over the procedural lapse.

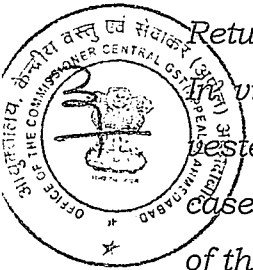
In view of the above submission, it is most humbly submitted that denial of vested Input tax credit available on receipts of goods is on facts of the present case is unsustainable and hence, the same may kindly be reversed and appeal of the appellant may kindly be allowed.

B. *Time Limit provided under Section 16(4) is directory and not mandatory:-*

The appellant most humbly submits that an object of the introduction of Goods and Service Tax is removing cascading effect on supply of goods and services. Thus, to fulfil the aforesaid object, the legislature has provided right to claim input tax credit under Section 16(1) of the Act. Thus, any interpretation which is defeating the very object of the introduction of Goods and Service Tax should be avoided.

Accordingly, to harmonise the provision of the Act and objects sought to be achieved, the provision contained in section 16(4) required to be read as directory only. It is most humbly submitted that filing of GSTR-3B to take and avail the credit is mandatory provision but at the same time, time limit within which the same may be claimed should be declared as directory in nature.

Thus, it is most humbly submitted that time limit provided u/s 16(4) may kindly be declared as directory in nature and accordingly, order of adjudicating authority may kindly be reversed.



Ground No. 3:- *The Ld. State Tax Officer erred in law and on facts in levying interest on the above demand and penalty of Rs.6,46,728/- while passing order under section 74 of the GGST/CGST Act, 2017.*

The appellant most humbly submits that in levy of penalty equivalent to tax is not justified in the present case u/s 74(1) as there is no malafide intention on the part of the appellant. Further, there is neither suppression of any facts or nor there is any deliberate attempt on part of the appellant to claim input tax credit. The appellant due to above mentioned submission is of bona fide opinion that he is eligible to claim input tax credit beyond the period specified in the notice and hence, it is requested that, without prejudice to above submission on eligibility to take input tax credit, the appellant most humbly submitted that at least penalty may kindly be deleted in the present case.

Personal Hearing:

5. Personal hearing in the present appeal was scheduled on 08.04.2024 and 18.04.2024, but neither the appellant nor his authorized representative appeared for P.H. However, the appellant requested for two weeks adjournment which was considered by this authority and the next P.H. was granted on 03.05.2024 and as requested it was further granted on 10.05.2024. However, no one appeared for P.H. The appellant, however submitted their further submission on 10.05.2024.

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 as well as further submission and observe that the Appellant is mainly contesting with the impugned order confirming the demand of ITC amounting to Rs.646728/- along with interest under Section 50 and penalty under Section 122(2)(b) 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 29.12.2023 and the present appeal is filed online on 13.02.2024. 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 the appellant is under bona fide belief that appellant can claim Input Tax Credit beyond period prescribed in section 16(4) as the time limit prescribed under section 16(4) is directory only. Further, that the appellant has claimed input tax credit on the basis of tax invoices received on receipt of supply and payment has duly been made to the supplier within the time prescribed under the Act. Neither the receipt of Supply nor documentary evidences was found to be deficient in the present case. Only because of alleged violation of Section 16(4), the appellant was denied the Input Tax Credit. The appellant has also provided entries in the books of account at time of receipt of supply and only return filing under GST was delayed due to latches on the part of accountant on implication of newly introduced GST provisions. Thus, it is most humbly submitted that claim of the appellant is in order and the same cannot be denied only due to minor delay of 10 to 21 days in filing GST Returns in FORM 3B.

6.5 The appellant has further contested that Section 16(4) is only providing restriction on taking of input tax credit beyond prescribed time and there is no restriction on availment of Input Tax Credit which is to be done by filing GSTR-3B. The Adjudicating authority has mixed up the concept of taking credit with the availment of tax credit and without properly appreciating the difference has denied the input tax credit. Further, the appellant has relied on the judgment of the Honorable Apex court in case of UOI & Bharti Airtel ltd reported at AIR 2021 SC 5659. Hence, Relying on the Apex court judgment the appellant has contended that they have not violated section 16(4) of the GST Act. Hence Input Tax Credit is vested right of the tax payer and the same cannot be taken away on minor procedure lapse in filing GST Returns, substantive right must prevail over the procedural lapse.

6.6 To decide the issue, I refer the following provisions of the CGST Act, 2017:

***Section 16. Eligibility and conditions for taking input tax credit.-**

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

.....

(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after

the ⁶[thirtieth day of November] following the end of financial year to which such invoice or ⁷[****] debit note pertains or furnishing of the relevant annual return, whichever is earlier.

⁸[Provided that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under section 39 for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub-section (1) of section 37 till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019.]

*Enforced w.e.f. 1st July, 2017.

6. Substituted (w.e.f. 1st October, 2022 vide Notification No. 18/2022 - CT dated 28.09.2022.) by s. 100 of The Finance Act 2022 (No. 6 of 2022) for "due date of furnishing of the return under section 39 for the month of September".

7. Omitted "invoice relating to such" (w.e.f. 1st January, 2021 vide Notification No. 92/2020-C.T., dated 22nd December, 2020) by s. 120 of The Finance Act, 2020 (No. 12 of 2020) .

8. Inserted vide Order No. 02/2018 -Central Tax dated 31st December, 2018.

***Section 41. ¹[Availment of input tax credit]**

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to avail the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited to his electronic credit ledger.

Enforced w.e.f. 22nd June, 2017.

Substituted (w.e.f. 1st October, 2022 vide Notification No. 18/2022 - CT) by s. 106 of The Finance Act 2022 (No. 6 of 2022) for

"Section 41. Claim of input tax credit and provisional acceptance thereof.

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed, be entitled to take the credit of eligible input tax, as self-assessed, in his return and such amount shall be credited on a provisional basis to his electronic credit ledger.

(2)

6.7 From the plain reading of the above provisions, it is clear that Credit of eligible Input Tax as self assessed is to be taken/availed by a Taxpayer in his return and shall be credited to his electronic credit ledger. It is not that the said credit can be availed in the GST return and credited in electronic credit ledger after the due date as prescribed in the provisions *ibid*. Therefore, the contention of the appellant that Section 16(4) is only providing restriction on taking ITC beyond prescribed time and there is no restriction on availment of ITC which is to be done by filing GSTR-3B, is not tenable. The provisions of law are to be complied with in its true spirit. When the availment of a benefit/concession is given to a taxpayer under the statutory provisions and

conditions, the statutory scheme and the concession can be received by the beneficiary only as per the scheme of the statute.

6.8 Further, I refer the following judgment of the Hon'ble High Court of Patna wherein sub-section (4) of Section 16 of the CGST/BGST Act has been held constitutionally valid.

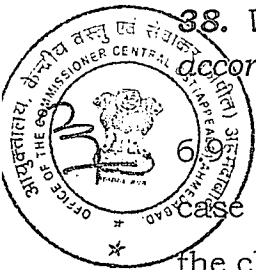
The Hon'ble HIGH COURT OF JUDICATURE at Patna in the case of M/s GOBINDA CONSTRUCTION Versus UNION OF INDIA reported in 2023 (77) G.S.T.L. 483 (Pat.) held as under:

33. Referring to the Supreme Court's decision in case of *Godrej & Boyce Mfg. Co. Pvt. Ltd. & Ors. v. Commissioner of Sales Tax & Ors.* reported in (1992) 3 SCC 24 the Supreme Court in case of *ALD Automotive Private Limited (supra)* has held that the ITC is in the nature of benefit/concession extended to a dealer under the statutory scheme and the concession can be received by the beneficiary only as per the scheme of the statute.

.....

37. For the reasons noted above, we are of the considered opinion that sub-section (4) of Section 16 of the CGST/BGST Act are constitutionally valid and are not violative of Articles 19(1)(g) and Article 300A of the Constitution of India. The said provision is not inconsistent with or in derogation of any of the fundamental right guaranteed under the Constitution of India.

38. We accordingly do not find any merit in these writ applications, which are accordingly dismissed."



The judgment of the Hon'ble Apex Court relied upon by the appellant in case of UOI & Bharti Airtel Ltd. is regarding the challenge to the Circular No. 26/26/2017-GST dated 29.12.2017 regarding Filing of Returns under GST, which is not applicable in the present case.

6.10 Further I observe that as per Section 155 of CGST Act, 2017 the burden of proof, in case of eligibility of ITC, availed by the appellant, lies entirely on the appellant. I refer to the relevant extract of Section 155 of the CGST Act, 2017:

Section 155. Burden of proof.-

"Where any person claims that he is eligible for input tax credit under this Act, the burden of proving such claim shall lie on such person."

In view of the foregoing, I am of the view that the order passed by the adjudicating authority confirming the demand of ITC is legal and proper.

6.11 As regards the confirmation of the demand of ITC along with interest under Section 50 and penalty under Section 122(2)(b), of the CGST / GGST Act, 2017, read with Section 20 of the IGST Act, 2017, I observe that the appellant has not taken the ITC of Rs.646728/- within the prescribed time limit, thereby violated the provisions of the CGST / GGST Act, 2017 as

explained above. Therefore the ITC so availed of Rs.646728/- is required to be reversed along with interest under Section 50(3) of the CGST/GGST Act, 2017 read with Section 20 of the IGST Act, 2017 and penalty under Section 74(1) read with Section 122(2)(b) of the CGST/GGST Act, 2017 read with Section 20 of the IGST Act, 2017 as the appellant has knowingly availed credit of ITC which is not eligible in view of the statutory provisions as explained above, with intention to evade Tax, and contravened the provisions of Section 16 of the CGST Act, 2017 as the eligibility conditions as laid down under sub section (4) of Section 16 of the CGST Act, 2017 are not fulfilled by them.

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
21/05/2024

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

Date: .05.2024.

Attested

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

By R.P.A.D.

To:

M/s Piyush Bhanvarlal Modi (Trade Name: Manglam Meditech)
GF, Shop No. 14, Block-A, Raj Residency,
Opp. Abhishek Apartment, Ganesh Kanya Vidyalay,
Nava Wadaj, Ahmedabad, Gujarat -380013
(GSTIN-24CQLPM3407Q1ZD).

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

