



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)	फाइल संख्या / File No.	GAPPL/ADC/GSTP/2734/2023 / ६२४ - ३३
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-CGST-001-APP-JC-147/2023-24 and 30.10.2023
(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	16.11.2023
(ङ)	Arising out of Order-In-Original No. ZH2403230346840 dated 22.03.2023 passed by The Assistant Commissioner, CGST, Division-VII, Ahmedabad South Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Asaya Infosolutions (GSTIN: 24AJKPD4615P1Z1), A-2103, Privilon, Iscon Cross Roads, S.G.Highway, Ahmedabad-380059

(A)	इस आदेश(अपील) से व्यक्ति कोई व्यक्ति विद्विषित्त तरीके में उपयुक्त प्राधिकारी /आधिकारण 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.
	Appeal to be filed before Appellate Tribunal under Section 112(B) 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.
(iii)	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)	उक्त अपीलार्थ प्राधिकारी को अपील शक्ति करने से संबंधित व्यापक, विस्तृत और नवीनतम जानकारी के लिए, अपीलार्थी विभागीय वेबसाइट www.cbic.gov.in पर 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

This order arises out of the appeal filed by M/s. Asaya Infosolutions, A-2103, Privilon, ISCON Cross Roads, S.G.Highway, Ahmedabad 380 059 (herein after referred as appellant) against the Order-in-original No. ZH2403230346840 dated 22.03.2023 (in short 'impugned order') passed by the Assistant Commissioner, CGST, Division- VII, Ahmedabad South (in short adjudicating authority) in respect of the refund claim filed by the appellant under the provisions of Section 54 (3) of the CGST Act, 2017 (in short the Act) read with Rule 89(2) of the Central Goods & Services Tax Rules, 2017 (in short The Rules);

BRIEF FACTS OF THE CASE:

2. M/s. Asaya Infosolutions, are registered with GSTIN No. 24AJKPD4615P1Z1. The appellant operates as a service provider in providing information technology consulting and support services. The appellant had filed a refund application under ARN No.AA240123037666F dated 10.01.2023 amounting to Rs. 7,48,774/- for the period of February and March 2022 for the Export done without payment of duty and accumulation of ITC in Form-GST- RFD-01.

3. A Show Cause Notice No.ZG2403230108273 dated 07.03.2023 was issued to the appellant on the grounds that as per Circular No.125/44/2019-GST FIRC's is mandatory, however the claimant had not provided FIRC's as YES Bank has already mentioned that they have not issued FIRC's to the claimant. The adjudicating authority vide his impugned order has rejected the refund claim amounting to Rs. 7,48,774 on the following grounds;

- (i) The calculation given by the applicant in respect of export/zero-rated turnover, adjusted aggregate turnover, is incorrect
- (ii) YES Bank had clarified that the document submitted by the claimant as FIRC have not been issued by them.
- (iii) As per Section 54 read with Circular No.125/44/2019-GST the refund claimed by the applicant is inadmissible.

4. Being aggrieved with rejection of the refund claim, the appellant filed the present appeal under the provision of Section 107 of the CGST Act, 2017 wherein they interalia submitted;

- (i) The refund rejection order is bad in law since has been issued without proper consideration of the available documents;
- (ii) the appellant is primarily involved in providing information technology consulting and support services to its foreign customers only. The services offered by the appellant meet the criteria for being classified as an export of

service and are also entitled to claim a refund for the taxes paid on these exported services as per Section 54(3) read with rule 89(2).

(iii) the appellant attached the copy of Foreign Inward Remittance Advice (FIRA) issued by YES Bank as evidence for receipt of payment against the supply of service. The adjudicating authority did not consider it and rejected the entire refund amount on account of non submission of proof of remittance in the form of FIRC.

(iv) The Reserve Bank of India, through its AP(DIR) Circular No.74 of 26.05.2016, expanded the scope of the Export Data Processing and Monitoring System (EDPMS) to capture details of all inward remittances, including advance payments. Consequently, the practice of issuing FIRC for export related payments was discontinued. FIRC is now exclusively issued for inward remittances related to Foreign Direct Investments (FDI) / Foreign Institutions Investment Owing to this reason, the appellant submitted a copy of FIRA which is a valid proof remittance.

(v) Circular 125/44/2019-GST dated 18.11.2019 wherein in SR.No.2 of Annexure-A of said circular which provides the list of documents that are to be submitted along with the refund application which among others, includes the copy of FIRC/BRC/any other document indicating the receipt of sale proceeds of service in case of export of service with payment of tax. Thus FIRA, attached by the appellant as issued by the bank which is the conclusive document indicating the receipt of the sales proceed in foreign currency.

principle of natural justice has not been adapted by the adjudicating authority by not providing the opportunity of being heard.

(vii) The refund amount rejected should be recredited in the electronic credit ledger of the appellant. Also prayed that the impugned order is required to be quashed ; FIRA shall be considered as the proof of the receipt of the sales proceed and refund to be granted and the adjudicating authority to be directed to recredit the amount in Electronic Credit Ledger.

5. Personal Hearing in the matter was held on 16.10.2023 wherein Mr. Umang Saraf, C.A. appeared on behalf of the appellant as authorized representative. During PH apart from the written submission, he stated that they have received only the Advise from the AD Bank in respect of four invoices, details submitted during person hearing. The difference is (Foreign currency receipt is of full value except interbank charges) due to foreign currency fluctuations and requested to allow their appeal.



DISCUSSIONS & FINDINGS

6. I have carefully gone through the facts of the case, and the submissions made by the appellant at the time of personal hearing and documents available on record. I find that in the instant case appeal is filed by the appellant against the impugned order wherein refund of accumulated ITC due to export without payment tax amounting to Rs. 7,48,774/- has been rejected by the adjudicating authority. The limited point to be decided in the matter is whether the rejection of refund claim amounting to Rs. 7,48,774/- for non receipt of FIRC is proper or otherwise.

7. The grounds on which the appeal has been filed by the appellant is that as per CBIC Circular No. 125/44/2019-GST dated 18.11.2019 they were not in a position to submit FIRC, instead has furnished copy of the Foreign Inward Remittance Advice (FIRA) which can vouch as proof of the remittances received for export of services for the refund claim. I find from the submissions made by the appellant that The Reserve Bank of India, through its AP(DIR) Circular No.74 of 26.05.2016, expanded the scope of the Export Data Processing and Monitoring System (EDPMS) to capture details of all inward remittances, including advance payments. Consequently, the practice of issuing FIRC for export related payments was discontinued. FIRC is now exclusively issued for inward remittances related to Foreign Direct Investments (FDI) / Foreign Institutions Investment Owing to this reason, the appellant submitted a copy of FIRA which is a valid proof remittance. In simple words, the AD Banks need to report all inward remittances under EDPMS received against export of goods/software.

8. Accordingly, the appellant had submitted copy of the FIRA, issued by the YES bank which is the conclusive document indicating the receipts of the sales proceed in foreign currency along with their refund claim. However, as seen from the impugned order, the adjudicating authority had rejected the refund claim just on the ground that YES Bank in their remittance advice had mentioned that they have not issued FOIRC to the customer with the details given below.

9. As per CBIC Circular No. 37/11/2018-GST F. No.349/47/2017-GST Government of India Ministry of Finance Department of Revenue Central Board of Excise and Customs GST Policy Wing New Delhi, Dated the 15th March, 2018 BRC / FIRC for export of goods: It is clarified that the realization of convertible foreign exchange is one of the conditions for export of services. In case of export of goods, realization of consideration is not a pre-condition. In

rule 89 (2) of the CGST Rules, a statement containing the number and date of invoices and the relevant Bank Realization Certificates (BRC) or Foreign Inward Remittance Certificates (FIRC) is required in case of export of services whereas, in case of export of goods, a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices is required to be submitted along with the claim for refund. It is therefore clarified that insistence on proof of realization of export proceeds for processing of refund claims related to export of goods has not been envisaged in the law and should not be insisted upon.

10. I find that on going through the confirmation of Foreign Inward Remittance Advice dated 20.07.2022 issued by the YES Bank, it mentioned that "As per FEDAI Circular SPL-58/FIRC/2012 dated 31.08.2012, we confirm that this remittance represent debit to Non Resident Rupees VOSTRO Account accordingly, we have not issued FIRC to the customer with the details given below". Thus, it clearly clarifies that instead of FIRC, the YES Bank has issued FIRA, in my opinion is a valid document for receipt of remittances in INR and the same has been mis-construed by the adjudicating authority. Therefore, I hold that the impugned order passed by the adjudicating authority rejecting refund of Rs.7,48,774/- is not legal and proper and deserve to be set aside. Accordingly, I set aside the impugned order rejection of refund claim of Rs.7,48,774/- and allow the appeal filed by the appellant.

11. In view of the facts and discussions above, I allow the appeal of the "Appellant" with a direction to the proper officer to consider the submissions of appellant and process the refund application after due verification of documents/details of appellant as directed in Para 10 above. The 'Appellant' is also directed to submit all the relevant documents/submission before the refund sanctioning authority and the refund Sanctioning Authority shall verify the facts again as directed in Para 10 above and pass order accordingly.

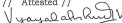
12. अपीलकर्ता द्वारा दर्ज की गई अपील का निवटारा उपरोक्त तरीके से किया जाता है।

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


(Adesh Kumar Jain)
Joint Commissioner (Appeals)

Date: .10.2023

// Attested //


(Vijayalaxmi V)
Superintendent (Appeals)
Central Tax, Ahmedabad



By R.P.A.D.

To,

M/s. Asaya Infosolutions

A-2103, Privilon, Iscon Cross Road

S.G. Highway,

Ahmedabad-380 059

Copy to:

1. The Principal Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner, CGST & C. Ex., Appeals, Ahmedabad.
3. The Commissioner, CGST & C. Ex., Ahmedabad-South.
4. The Dy/Asstt. Commissioner, CGST, Division-VII, Ahmedabad South.
5. The Superintendent (Systems), CGST & C. Ex., Appeals, Ahmedabad.
6. Guard File.
7. P.A. File