



आयुक्त (अपील) का कार्यालय,

Office of the Commissioner (Appeal),

केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद

Central GST, Appeal Commissionerate, Ahmedabad

जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015

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रजिस्टर्ड डाक ए.डी. द्वारा

(DIN: 20210364SW0000001E9F)

क फाइल संख्या : File No : GAPPL/ADC/GSTP/347/2020

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-001-APP-JC-042:20-21
दिनांक Date : 08-03-2021 जारी करने की तारीख Date of Issue :

श्री मुकेश राठोर संयुक्त आयुक्त (अपील) द्वारा पारित

Passed by Shri. Mukesh Rathor, Joint Commissioner (Appeals)

ग Arising out of Order-in-Original No ZR2407200437452 दिनांक: 27.07.2020 issued by Assistant Commissioner, Central GST, Division-VII, Ahmedabad-South

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
M/s Numex Chemical Corporation, 4, Medicine Market, Ground Floor, Opp. Shefali Complex, Paldi, Ahmedabad-380006.

(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 GS 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 APPEAL

M/s. Numex Chemical Corporation having their office at 4, Medicine Market, Ground Floor, Opp. Shefali Complex, Paldi, Ahmedabad-380006 (*hereinafter referred to as 'appellant'*) have filed the present appeal against Order No. ZR2407200437452 dated 28.07.2020 passed in FORM-GST-RFD-06 (*hereinafter referred to as 'impugned order'*) issued by the Assistant Commissioner, CGST, Division-VII, Ahmedabad South Commissionerate (*hereinafter referred to as 'adjudicating authority'*).

2. Briefly stated that the appellant is holding GST Registration number 24AAAFN1292M1Z8. The appellant filed a refund application ARN No. AA240620040135V on dated 18-06-2020 for Rs. 2,38,378/- before the adjudicating authority, under Section 54 of CGST Act, 2017, on account of Any Other (Specify) for tax period from 01.08.2017 to 31.08.2017. The adjudicating authority vide impugned order rejected the refund claim as the appellant has claimed refund after expiry date of two years from the relevant date as mentioned in section 54 of CGST Act, 2017.

3. Being aggrieved with the impugned order, the appellant filed the present appeal wherein, inter alia, stated that:

- The original refund application for the month of August 2017 was filed on 22/12/2018 i.e. within two years from the date of payment as per Section 54 of CGST Act, 2017;
- The above said application was done under the Category "Refund application on account of supply made to SEZ without payment of Tax", it led to duplication of tax payment.
- The appellant is not asking for the refund of ITC on proportionate basis on account of supply made to SEZ without payment of tax. The appellant is asking for the refund of the Tax actually paid by it.

4. A personal hearing in the matter was fixed on 21.01.2021. Ms Pranali Thakore (C.A.) appeared before me for personal hearing on through video conferencing mode on dated 21.01.2021 on behalf of the appellant in appeal no. GAPPL/ADC/GSTP/347/2020.

She has submitted her written submission on dated 15.10.2020 and reiterated the same at the time of personal hearing. She requested that additional written submission will be submitted through E-mail. Further, She requested to set aside the order passed by the Adjudicating Authority.

5. I have carefully gone through the appeal memorandum, oral submission made at the time of personal hearing and evidences available on records. I find that only issue to be decided is whether the appellant is delay in Refund application or not. Accordingly, I proceed to decide the case.

6. Prima facie, I find that the appellant had filed the refund claims under Section 54 of CGST Act, 2017 on account of Any Other (Specify). I find that the adjudicating authority has rejected the refund claim due to non-filing refund application within prescribed time limit. Further, I find that the appellant has mentioned in grounds of appeal that the original refund application for the month of August 2017 was filed on 22/12/2018 i.e. within two years from the date of payment as per Section 54 of CGST Act, 2017. In this regard, I find that the time limit to file refund application is clearly mentioned in Section 54(1) of CGST Act, 2017, which is reproduced below:

"SECTION 54. Refund of tax. — (1) Any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application before the expiry of two years from the relevant date in such form and manner as may be prescribed"

From above, it is very crystal clear that the grounds raised by the appellant are not tenable. I find that the appellant may make an application for refund of any tax and

interest, if any, paid on such tax or any other amount paid by him **before the expiry of two years from the relevant date** in such form and manner as may be prescribed. In the present case, it is observed from the records available on file that the refund application has not filed within time limit in terms of the provisions of Section 54(1) of CGST Act, 2017. I also find that there is no evidence submitted by the appellant to justify that he was not delayed in Refund application. As such, the plea of the appellant is not tenable.

7. In view of the above, I do not find any force in the contentions of the appellant. Accordingly, I find that the impugned order passed by the adjudicating authority is correct as per the provisions of GST law.

8. Accordingly, I do not find any reason to interfere with the decision taken by the adjudicating authority vide "impugned order".

9. In view of above discussion, I reject the appeal filed by the appellant.

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

The appeals filed by the appellant stand disposed off in above terms.

Date : 08-03-2021

Attested

[Signature]

(*[Stamp]*)
Superintendent (Appeals)
CGST, Ahmedabad.

By R.P.A.D.

To,

M/s. NUMEX CHEMICAL CORPORATION
(GSTIN: 24AAAFN1292M1Z8)
4, Medicine Market, Ground Floor,
Opp. Shefali Complex, Paldi, Ahmedabad-380006

Copy to:

1. The Chief Commissioner, Central Tax, Ahmedabad Zone .
2. The Commissioner(Appeals), CGST, Ahmedabad
3. The Commissioner, Central Tax, Ahmedabad South.
4. The Assistant Commissioner CGST, Division-VII – Ahmedabad South.
5. The Assistant Commissioner, System, Central Tax, Ahmedabad South.
6. Guard File.
7. P.A.



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