



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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टेलिफैक्स 07926305136



रजिस्टर्ड डाक ए.डी. द्वारा

(DIN:- 20210664SW0000888BDD

- क फाइल संख्या : File No : GAPPL/ADC/GSTP/483/2020 /1695 TO 1699
- ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-001-APP-ADC-010/21-22  
दिनांक Date : 11-06-2021 जारी करने की तारीख Date of Issue : 17.06.2021
- श्री मोहित अग्रवाल, अपर आयुक्त (अपील) द्वारा पारित  
Passed by Shri. Mohit Agrawal, Additioanl Commissioner (Appeals)
- ग Arising out of Order-in-Original No ZY2409200382709812 दिनांक: 25.09.2020 issued by Assistant Commissioner, Central GST, Division-II, Ahmedabad-South
- घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent  
M/s . Agro Gums, 636, Phase-4, Vatva GIDC Estate, Vatva, Ahmedabad-382445.

(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 <a href="http://www.cbic.gov.in">www.cbic.gov.in</a> .





**ORDER-IN-APPEAL**

This order arises on account of an appeal filed by Chandubhai Bhagwandas Patel (Trade Name M/s Agro Gums) at 636, Phase-4, Vatva GIDC Estate, Vatva, Ahmedabad-382445 having GSTIN-24AAPP5813R1ZX (hereinafter referred as 'the appellant') against the Refund Rejection Order in Form-GST-RFD-6 vide No. ZY2409200382709 dated 25.09.2020 (hereinafter referred as 'the impugned Order') passed by the Assistant Commissioner, Central GST, Division-II (Vatva-I), Commissionerate: Ahmedabad-South (hereinafter referred as 'the adjudicating authority').

2. Facts of the case, in brief, are that the appellant is registered under the Central Goods and Service Tax Act, 2017 vide GST registration number 24AAPP5813R1ZX. The appellant vide application in GST-RFD-01 dated 21.08.2020 (ARN-AA240820061126L) submitted their claim for refund of an amount of Rs. 14,98,449/- under Section 54 of the CGST Act, 2017, on account of excess payment of tax made during the month of August'2019.

2.1 Thereafter, a Show Cause Notice No. ZY2409200281865 was issued in form RFD-08 dated 18.09.2020 was issued by the adjudicating authority to the appellant wherein the claim for refund was proposed to be rejected under Rule 92 of the CGST Rules, 2017. The grounds for the rejection as mentioned in the said show cause notice are reproduced below:

*"As per Circular No. 135/05/2020-GST dated 31.03.2020. Excess payment of Tax made through Credit can be re-credited through issuing PMT-03. As PMT-03 option is not available in the portal. Hence, comply why your claim should not be rejected".*

The appellant was also directed to appear before the adjudicating authority on 21.09.2020 with an instruction that "If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex parte on the basis of available records and on merits."

2.2 In their reply in Form RFD-09 dated 24.09.2020 to the above mentioned Show Cause Notice, the appellant has submitted that "they have made payment of Rs. 14,98,449/- in excess, in respect of the Zero Rated Supply which was by mistake shown as "Domestic Supply" while submitting





the details in the GSTR 3B for the month of August'2019. They have requested for refund of the said amount of tax, paid in excess and also requested to re-credit the same, if refund in cash can not be provided. If the GSTN Portal is not providing option to re-credit the ITC through PMT-03 as mentioned in Circular No. 135/05/2020-GST, there is no fault of them."

2.3 The refund claim amounting to Rs. 14,98,449/- was rejected vide the impugned order by the adjudicating authority on the ground that "*Claim is rejected as per RFD-08 issued as no option of re-credit could be provided on the GST portal. This Claim could not be sanctioned in Cash and reply RFD-09 is not acceptable. Hence, rejection order in FORM GST RFD-06 is being issued.*"

3. Being aggrieved with the impugned order, the appellant preferred this appeal on the ground that "*the rejection of refund claim of Excess Payment of Tax, by the adjudicating authority on the grounds of non availability of option on GST Portal to Re-credit the GST, though there is provision in Circular No. 135/05/2020-GST dated 31.03.2020, is not correct.*"

4. Virtual Hearing in the case was fixed on 31.03.2021. Shri Mitt Patel, Chartered Accountant attended hearing on behalf of the appellant. He has reiterated the submissions made in appeal memorandum and has also requested to consider their appeal.

5. I have carefully gone through the facts of the case on record, grounds of appeal and the submissions made by the appellant. The relevant portion of the Circular No. 135/05/2020-GST dated 31.03.2020 is reproduced here below:

*"4.3.1 As this could lead to allowing unintended encashment of credit balances, this issue has been engaging attention of the Government. Accordingly, vide notification No.16/2020-Central Tax dated 23.03.2020, **sub-rule (4A) has been inserted in rule 86 of the CGST Rules, 2017** which reads as under:*

*"(4A) Where a registered person has claimed refund of any amount paid as tax wrongly paid or paid in excess for which debit has been made from the electronic credit ledger, the said amount, if found admissible, shall be re-credited to the electronic credit ledger by the proper officer by an order made in FORM GST PMT-03."*



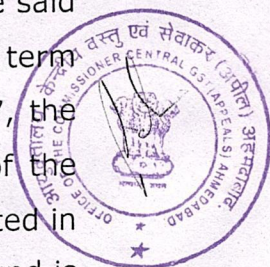


4.3.2 Further, vide the same notification, **sub-rule (1A) has also been inserted in rule 92 of the CGST Rules, 2017.** The same is reproduced hereunder:

"(1A) Where, upon examination of the application of refund of any amount paid as tax other than the refund of tax paid on zero-rated supplies or deemed export, the proper officer is satisfied that a refund under sub-section (5) of section 54 of the Act is due and payable to the applicant, he shall make an order in FORM RFD-06 sanctioning the amount of refund to be paid, in cash, proportionate to the amount debited in cash against the total amount paid for discharging tax liability for the relevant period, mentioning therein the amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable and for the remaining amount which has been debited from the electronic credit ledger for making payment of such tax, the proper officer shall issue FORM GST PMT-03 re-crediting the said amount as Input Tax Credit in electronic credit ledger."

5.1 It is observed that as clarified by the Board vide abovementioned Circular No. 135/05/2020-GST dated 31.03.2020, the provisions of sub-rule (1A) of Rule 92 of the CGST Rules, 2017 clearly provides that "Where, ....., the proper officer is satisfied that a refund under sub-section (5) of section 54 of the Act is due and payable to the applicant, he shall make an order in **FORM RFD-06** sanctioning **the amount of refund to be paid, in cash, proportionate to the amount debited in cash** against the total amount paid for discharging tax liability for the relevant period, mentioning therein the amount adjusted against any outstanding demand under the Act or under any existing law and the balance amount refundable **and for the remaining amount which has been debited from the electronic credit ledger** for making payment of such tax, **the proper officer shall issue FORM GST PMT-03 re-crediting the said amount as Input Tax Credit in electronic credit ledger**".

5.2 In the present case, I find that as mentioned by the adjudicating authority in the impugned order, there was no option available on GSTN Portal to re-credit the ITC through PMT-03, at the relevant time and the said facts has never been disputed by the appellant. Further, I find that in terms of the provisions of sub-rule (1A) of Rule 92 of the CGST Rules, 2017, the adjudicating authority may make order in FORM RFD-06 in respect of the amount of refund to be paid, in cash, proportionate to the amount debited in cash. Further, I find that in the present case, the amount for which refund is





claimed by the appellant has been debited from the electronic credit ledger only. Accordingly, I find that the impugned order passed by the adjudicating authority in FORM RFD-06 rejecting the claim of the appellant for refund to be paid in cash, is as per law.

6. In view of the discussions made in the foregoing paras, I do not find merit in the contention of the appellant so as to interfere with the decision taken by the adjudicating authority vide the impugned order. Accordingly, the appeal filed by the appellant is rejected and upheld the impugned order passed by the adjudicating authority in the present case.

7. The appeals stand disposed off in above terms

*Mohit Agrawal*  
11/6/24

**(MOHIT AGRAWAL)**  
Additional Commissioner,  
CGST (Appeals), Ahmedabad.



Attested

*M.P. Sisodiya*

(M.P. Sisodiya)  
Superintendent (Appeals)  
Central GST, Ahmedabad

**By Regd. Post A. D**

Chandubhai Bhagwandas Patel  
(Trade Name M/s Agro Gums)  
636, Phase-4, Vatva GIDC Estate,  
Vatva, Ahmedabad-382445

Copy to :

- 1 The Principal Chief Commissioner, CGST, Ahmedabad.
- 2 The Principal Commissioner CGST, Ahmedabad-South.
3. The Deputy /Asstt. Commissioner, CGST, Division-II (Vatva-I), Ahmedabad-South.
4. The Deputy/Asstt. Commissioner (Systems), CGST, Ahmedabad-South.
5. Guard file
6. PA File