



सत्यमेव जयते

आयुक्त (अपील) का कार्यालय,

Office of the Commissioner (Appeal),

केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद

Central GST, Appeal Commissionerate, Ahmedabad

जीएसटी भवन, राजस्व मार्ग, अम्बावाडी अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015

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DIN-20211264SW000000D62A

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रजिस्टर्ड डाक ए.डी. द्वारा

फाइल संख्या : File No : GAPPL/ADC/GSTP/645/2020,421/2021, 364/2021, 500/2021, 671/2021, 674/2021, 812/2021, 982/2021, 983/2021, 984/2021, 1034/2021, 1094/2021, 2688/2021, 2689/2021 & 1966/2021-APPEAL

अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-JC-100/2021-22**

दिनांक Date : **29-12-2021** जारी करने की तारीख Date of Issue : **29-12-2021**

श्री मिहिर रायका संयुक्त आयुक्त (अपील) द्वारा पारित

Passed by Shri. Mihir Rayka, Joint Commissioner (Appeals)

Arising out of Order-in-Original Nos. ZN2411200048156 DT. 11.04.2020, ZQ2412200047235 DT. 04.12.2020, ZO2412200131035 DT. 11.12.2020, ZU2412200191491 DT. 17.12.2020, ZN2412200297979 DT. 29.12.2020, ZS2412200298002 DT. 29.12.2020, ZQ2401210076924 DT. 08.01.2021, ZY2401210249180 DT. 28.01.2021, ZQ2402210099625 DT. 08.02.2021, ZN2403210016760 DT. 03.01.2021, ZV2405210255239 DT. 17.05.2021, ZX2405210255451 DT. 17.05.2021, ZW2407210182719 DT. 14.07.2021, ZT2407210182797 DT. 14.07.2021 & ZX2407210376597 DT. 28.07.2021 issued by Deputy Commissioner, CGST, Division I, Ahmedabad South

अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent

**M/s. La Gajjar Machineries Pvt. Ltd., Acidwala Estate, Nagarwel
Hanuman Road, Amraiwadi, Ahmedabad 380026**

(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 APPEAL

M/s.La Gajjar Machineries Pvt.ltd., Acidwala Estate, Nagarwel Hanuman Road, Amraiwadi, Ahmedabad 380 026 (hereinafter referred to as the appellant) has filed the following appeals against Orders (hereinafter referred to as 'the impugned orders') passed by the Deputy/Assistant Commissioner, CGST, Division I (Rakhial), Ahmedabad South (hereinafter referred to as 'the adjudicating authority') rejecting refund claim filed by the appellant for refund of ITC accumulated on input services under inverted tax structure.

Sr No.	Appeal File No.	Date of filing appeal	Impugned Order Number and date	Amount of refund rejected
1	GAPPL/ADC/GSTP/645/2020	8-12-2020	ZN2411200048156/11-4-2020	6916760/-
2	GAPPL/ADC/GSTP/421/2021	26-2-2021	ZQ2412200047235/4-12-2020	7640394/-
3	GAPPL/ADC/GSTP/364/2021	23-2-2021	ZO2412200131035/11-12-2020	8193236/-
4	GAPPL/ADC/GSTP/500/2021	3-3-2021	ZU2412200191491/17-12-2020	6616275/-
5	GAPPL/ADC/GSTP/671/2021	1-4-2021	ZN2412200297979/29-12-2020	6392497/-
6	GAPPL/ADC/GSTP/674/2021	6-4-2021	ZS2412200298002/29-12-2020	8030375/-
7	GAPPL/ADC/GSTP/812/2021	28-4-2021	ZQ2401210076924/8-1-2021	2972995/-
8	GAPPL/ADC/GSTP/983/2021	6-5-2021	ZY2401210249180/28-1-2021	3828705/-
9	GAPPL/ADC/GSTP/982/2021	6-5-2021	ZQ2402210099625/8-2-2021	9145342/-
10	GAPPL/ADC/GSTP/984/2021	31-5-2021	ZN2403210016760/3-1-2021	8127581/-
11	GAPPL/ADC/GSTP/1034/2021	14-6-2021	ZV2405210255239/17-5-2021	1740215/-
12	GAPPL/ADC/GSTP/1094/2021	21-6-2021	ZX2405210255451/17-5-2021	5615470/-
13	GAPPL/ADC/GSTP/2689/2021	24-8-2021	ZW2407210182719/14-7-2021	2559061/-
14	GAPPL/ADC/GSTP/2688/2021	24-8-2021	ZT2407210182797/14-7-2021	5637426/-
15	GAPPL/ADC/GSTP/1966/2021	27-8-2021	ZX2407210376597/28-7-2021	5691947/-

2. Briefly stated the facts of the case is that the appellant, registered under GSTIN 24AAACL3246N1ZG, has filed refund applications for refund of Input Tax Credit accumulated due to inverted tax structure in terms of Section 54 of CGST Act, 2017. The adjudicating authority vide impugned orders has rejected part of claim which pertains to ITC involved on input services. Being aggrieved the appellant filed the above appeals mainly relying on Hon'ble Gujarat High Court's Order dated 24-7-2020 in the case of M/s.VKC Footsteps India P.ltd Vs UOI.

3. During appeal proceedings the appellant submitted letter dated Nil on 23-12-2021, wherein they stated that they had preferred appeal against rejection of refund to the extent of ITC accumulated on account of input services in case of refund of total ITC accumulated on account of inverted duty structure. This similar issue was also under review by Hon'ble Supreme Court in case of M/s.VKC Footsteps India P.ltd Vs UOI in Civil Appeal 4810 of 2021, wherein it is held that refund to the extent of ITC accumulated on account of input services in case of refund of total ITC accumulated on account of inverted duty structure is not allowed. Hence they requested to acknowledge that they want to withdraw the appeal filed by them. They further undertake that they will not file further appeal in this case and requested to re credit the rejected refund amount in their electronic credit ledger.



4. I have carefully gone through the facts of the case grounds of appeal and submission made by the appellant. In this case the refund claim amount rejected by the adjudicating authority pertains to ITC involved on input services which are excluded for computation of net ITC under Rule 89 (5) of CGST Rules, 2017. Hon'ble High Court vide its order dated 27-4-2020 held that the Explanation to Rule 89 (5) of CGST Rules, 2017 which denies unutilized input tax paid on input services as part of ITC accumulated on account of inverted tax structure ultra vires the provisions of Section 54 (3) of CGST Act, 2017. In appeal filed by the Department before Hon'ble Supreme Court, Hon'ble Supreme Court vide common Order dated 13-9-2021 has set aside the Order passed by the Hon'ble High Court of Gujarat. Thus the appeals filed by the appellant relying on Hon'ble High Court's decision no longer sustainable. However, since the appellant has voluntarily requested to withdraw their appeals, I dismiss the appeals as withdrawn by the appellant. Regarding their request for re-credit of rejected claim amount in electronic credit ledger, their request may be considered by the appropriate authority empowered to grant the same in accordance with provisions of CGST Act and Rules framed there under.


अपील कर्था द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

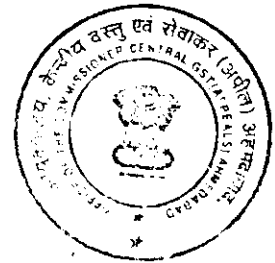
5. The appeals filed by the appellant stands disposed of in above terms.


(Mihir Rayka)

Joint Commissioner (Appeals)

Date :
Attested


(Sankara Raman B.P.)
Superintendent
Central Tax (Appeals),
Ahmedabad



By RPAD

To,

M/s. La Gajjar Machineries Pvt. Ltd.,
Acidwala Estate, Nagarwel Hanuman Road,
Amraiwadi, Ahmedabad 380 026

Copy to :

- 1) The Principal Chief Commissioner, Central tax, Ahmedabad Zone
- 2) The Commissioner, CGST & Central Excise (Appeals), Ahmedabad
- 3) The Commissioner, CGST, Ahmedabad South
- 4) The Deputy/Assistant Commissioner, CGST, Division I (Rakhial) Ahmedabad South
- 5) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- ✓ 6) Guard File
- 7) PA file