



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, अम्बावाड़ी अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015

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DIN-20220164SW000000C8EF

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/341/2021-APPEAL / 5810 70 5815  
ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-001-APP-ADC-107/2021-22  
दिनांक Date : 13-01-2022 जारी करने की तारीख Date of Issue : 17-01-2022

श्री मिहिर रायका अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. ZQ2402210024269 दिनांक: 02-02-2021 issued by  
Deputy Commissioner, CGST, Division VI-Vastrapur, Ahmedabad South

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent  
M/s. QX Global Services LLP, 201, GNFC Info Tower,  
SG Road, Bodakdev, Ahmedabad-380054

(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) <b>Full amount of Tax, Interest, Fine, Fee and Penalty</b> arising from the impugned order, as is admitted/accepted by the appellant, and (ii) A sum equal to <b>twenty five per cent</b> 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 <a href="http://www.cbic.gov.in">www.cbic.gov.in</a> 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**

M/s.QX Global Services LLP, 201, GNFC Info Tower, SG Road, Bodakdev, Ahmedabad 380 054 (hereinafter referred to as 'the appellant') has filed the present appeal on dated 19-2-2021 against Order No.ZQ2402210024269 dated 2-2-2021 (hereinafter referred to as the 'impugned order') passed by the Deputy Commissioner, Division VI (Vastrapur), Ahmedabad South (hereinafter referred to as 'the adjudicating authority').

2. Briefly stated the fact of the case is that the appellant registered under GSTIN 24ADOF51274M1ZL has filed refund application for refund of Rs.1,47,94,608/- under 'Any other' category. The adjudicating authority vide impugned order rejected the claim on the following grounds :

*The claimant has declared their zero rated supply in their GSTR3B returns as '0' and therefore as per the formula prescribed under Rule 89 (4) of the CGST Rules, 2017, the maximum eligible refund amount comes to '0'. Further from their GSTR3B, I find that they have not made any payment of tax on account of such zero rate supplies. Further, the claimant has failed to file the refund under the proper category of 'export of services with payment of tax' and therefore refund is also not as per prescribed conditions of Circular No.125/44/2019-GST read with 135/05/2020-GST. Thus in such case no refund arises.*

3. Being aggrieved the appellant filed the present appeal on following grounds :

That they are an 100% EOU and used to claim GST refund for the accumulated ITC. However in the particular month of January 2020 they required to file their GST refund claim under 'refund of export of services with payment of tax' category and they paid major portion of such amount of IGST through accumulated ITC as well as remaining portion by cash.

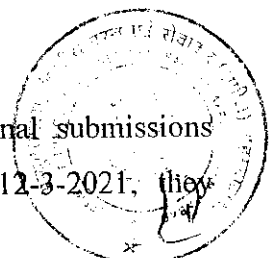
But due to said error, GST portal not allowed them to file their GST refund claim under such category. Therefore they filed the refund under 'any other' category.

The said error has been done by the appellant inadvertently which is purely human error and occurred unintentionally while filing GSTR3B for the month of January 2020.

They had filed GSTR1 correctly for the month of January 2020. Even though they want to file the refund application under the correct category viz refund of export of services with payment of tax but due to said error they were unable to do so and hence filed the application under category of 'any other'.

4. Personal hearing was held on dated 6-1-2022. Shri Vinit Shah and Shri Snehal Patel authorized representatives appeared on behalf of the appellant on virtual mode. They asked for seven working days to submit additional details/submissions which is granted.

5. Accordingly, the appellant vide their letter dated NIL made additional submissions wherein they contended that as per Circular No.147/-3/2021-GST dated 12-3-2021, they



requested to sanction refund claim under 'any other' category or allow them to file GST refund claim under the category 'export of services with payment of tax'.

6. I have carefully gone through the facts of the case, grounds of appeal, submissions made by the appellant and documents available on record. In this case refund claim was rejected on the only reason that the appellant has shown the details of outward taxable supplies (zero rated) as 0 in GSTR3B returns but claimed refund of IGST paid on zero rated supply. I find that relevant column provided in GSTR3B return for showing zero rated supply is 3.1(b) whereas the appellant has shown the details under Column 3.1 (a). Similarly in their refund application also they had claimed refund under 'Any other' category. However, I find that in their GSTR1 return the appellant has shown the export details correctly under column 6A.

7. In this regard I refer to Circular No.147/03/2021-GST dated 12-3-2021 referred by the appellant wherein it was clarified as under :

***3. Extension of relaxation for filing refund claim in cases where zero-rated supplies has been wrongly declared in Table 3.1(a).***

*3.1 Para 26 of Circular No. 125/44/2019-GST dated 18th November 2019 gave a clarification in relation to cases where taxpayers had inadvertently entered the details of export of services or zero-rated supplies to a Special Economic Zone Unit/Developer in table 3.1(a) instead of table 3.1(b) of FORM GSTR-3B of the relevant period and were unable to claim refund of the integrated tax paid on the same through FORM GST RFD-01A. This was because of a validation check placed on the common portal which prevented the value of refund of integrated tax/cess in FORM GST RFD-01A from being more than the amount of integrated tax/cess declared in table 3.1(b) of FORM GSTR-3B. The said Circular clarified that for the tax periods from 01.07.2017 to 30.06.2019, such registered persons shall be allowed to file the refund application in FORM GST RFD-01A on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess mentioned in the tables 3.1(a), 3.1(b) and 3.1(c) of FORM GSTR-3B filed for the corresponding tax period.*

*3.2 Since the clarification issued vide the above Circular was valid only from 01.07.2017 to 30.06.2019, taxpayers who committed these errors in subsequent periods were not able to file the refund applications in FORM GST RFD-01A/ FORM GST RFD-01.*

*3.3 The issue has been examined and it has been decided to extend the relaxation provided for filing refund claims where the taxpayer inadvertently entered the details of export of services or zero-rated supplies to a Special Economic Zone Unit/Developer in table 3.1(a) instead of table 3.1(b) of FORM GSTR-3B till 31.03.2021. Accordingly, para 26 of Circular No. 125/44/2019-GST dated 18.11.2019 stands modified as under:*

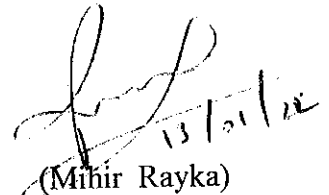
*"26. In this regard, it is clarified that for the tax periods commencing from 01.07.2017 to 31.03.2021, such registered persons shall be allowed to file the refund application in FORM GST RFD-01 on the common portal subject to the condition that the amount of refund of integrated tax/cess claimed shall not be more than the aggregate amount of integrated tax/cess*

mentioned in the Table under columns 3.1(a), 3.1(b) and 3.1(c) of FORM GSTR-3B filed for the corresponding tax period."

8. I find that the above Circular clarifies the issue on hand and extend the facility to file refund application for refund for the period till 31-3-2021 in cases where details of export of services was wrongly entered in column 3.1 (a) instead of under column 3.1 (b) in GSTR3B return. The refund claim in this case pertain to the month of January 2020 and hence the clarification issued vide above Circular is applicable. I also observe that except wrong mention of export details in Col No.3.1 (a) of GSTR3B return and refund application there is no dispute on any other conditions or provisions governing admissibility of refund. Since the discrepancy on the part of the appellant has now been regularized vide above Circular, I hold that on the basis of Circular No.12-3-2021, the reasoning given in impugned order for rejection of refund claim no longer sustainable and the appellant is entitled to refund subject to conditions of said Circular and further subject to provisions of CGST Act, Rules and instructions in force. Accordingly, I set aside the impugned order and allow the appeal filed by the appellant.

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

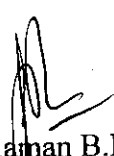
9. The appeal filed by the appellant stands disposed of in above terms.

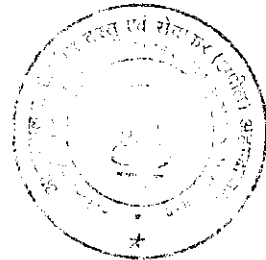
  
(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested

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



By RPAD

To,

M/s.QX Global Services LLP,  
201, GNFC Info Tower,  
SG Road, Bodakdev,  
Ahmedabad 380 054

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 Assistant Commissioner, CGST, Division VI (Vastrapur), Ahmedabad South.
- 5) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 6) Guard File
- 7) PA file