



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-20220164SW0000777F0E

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/366/2021-APPEAL / 5816705821
ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-108/2021-22**
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)

Arising out of Order-in-Original No. **ZO2402210045492** दिनांक: **03-02-2021** issued by Assistant Commissioner, CGST, Division I-Rakhial, Ahmedabad South

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

M/s. Rangrej Dyeing, 218/2, Sikander Market,

Opp Style Wash Factory, Dani Limda, Ahmedabad-380022

(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) 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.
(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

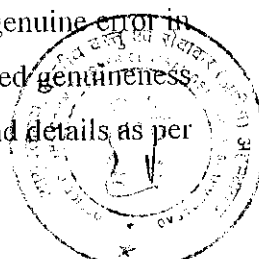
M/s.Rangrej Dyeing, 218/2, Sikander Market, Opp Style Wash Factory, Dani Limda, Ahmedabad 380 022 (hereinafter referred to as 'the appellant') has filed the present appeal on dated 22-2-2021 against Order No.ZO2402210045492 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner, Division 1 (Rakhial), Ahmedabad South (hereinafter referred to as 'the adjudicating authority').

2. Briefly stated the fact of the case is that the appellant, registered under GSTIN 24ADAPR0064L1ZN, has filed refund claim for refund of Rs.473128/- on account of ITC accumulated due to inverted tax structure. The appellant was issued show cause notice No.ZP2401210215468 DATED 25-1-2021 proposing rejecting of the claim on the ground that some entries in Annexure B are misclassified as input and as per Notification No.26/2018-CT dated 13-6-2018 the ITC on input service is not admissible. Further clarify the difference in net ITC mentioned in GSTR3B, Statement 1A and Annexure B and RFD 01. The adjudicating authority vide impugned order ordered as under :

ITC as per ST1A 215715/-, Adjusted turnover is Rs.4662995/-, Inverted turnover is Rs.4662995/- and tax paid is Rs.233150/-. Accordingly admissible refund amount works out to NIL (Rule 89 (5). Accordingly the claim is sanctioned as NIL under section 54 of CGST Act, 2017.

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

- i. That the refund rejection order is illegal and required to be set aside ;
- ii. That the proper officer has not given proper opportunity of hearing before rejecting application of refund
- iii. That due to some technical glitches on portal few invoices of inward supplies were not reflecting on side of proper officer by GSTN portal and so on this ground refund application was rejected by the proper officer. Even though the appellant had also uploaded PDF copy of Statement 1A total ITC is Rs.378281/- CGST and Rs.378281/- SGST and even though the proper officer mentioned that ITC as per Statement 1A is Rs.215715/- refund was rejected on this ground.
- iv. The appellant has also uploaded Annex B in PDF form as per Circular No.135/05/2020-GST dated 31-3-2020 after ignoring input services and capital goods of eligible ITC was Rs.733197/- which has also been ignored by the proper officer.
- v. The appellant has uploaded copy of GSTR2A in PDF format. The ITC as per GSTR 2A is CGST Rs.370316/- and SGST Rs.370316/- (Total ITC as per GSTR2A is Rs.740632/-) Though the proper officer ignore the details of GSTR2A and just relied on Statement 1A utility.
- vi. Without going into the depth of the case, reliance is given on online Statement 1A utility. Due to technical glitches on GSTN portal, statement 1A was reflecting invoices less than which was uploaded by the appellant. If by mistake, the appellant had made genuine error in online filing of Statement 1A excel utility, the proper officer may have verified genuineness of the appellant by verifying statement 1A pdf copy as well as Annexure B and details as per

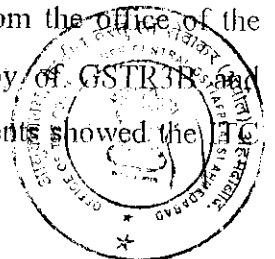


Annexure B and Statement 1A could have been cross checked in GSTR2A available on portal.

- vii. They had also uploaded require documents as per Circular No.125/44/2019-GST dated 18-11-2019 and 135/05/2020-GST dated 31-3-2020 but without verifying all uploaded documents refund application was rejected ;
- viii. The appellant filed refund application on different dates 28-10-2020, 9-12-2020 and 7-1-2021 and out of which the proper officer issued deficiency memo twice and deficiency was mentioned in both deficiency memo. The proper officer must mention all deficiencies at once in deficiency memo instead of issuing deficiency memo again and again. When the refund application was filed for the 3rd time, the proper officer acknowledged the application without any deficiency and thereafter shows cause notice was issued for which they filed reply. The reply was also rejected and also supporting evidences uploaded by them were ignored and passed refund rejection order by mentioning that Statement 1A showing input of Rs.215715/-. So by giving weightage to Statement 1A the refund application was rejected without verifying and cross checking other supporting documents.
- ix. That their intention is not to evade tax which can be verified with other supporting evidences also and genuineness of the appellant can be verified with documents and materials available on record. Only reliance on Statement 1A utility for sanction/rejection order is without application of mind.
- x. In view of above submissions the appellant requested to set aside the impugned order and allow refund with interest.

4. Personal hearing was held on dated 5-1-2022. Shri Jay Thakker, authorized representative appeared on behalf of the appellant on virtual mode. He has nothing more to add to their written submission till date.


5. 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 vide impugned order the adjudicating authority has held that the refund of Rs.473128/- was inadmissible on the reason that as per calculation in terms of Rule 89 (5) of CGST Rules, 2017 the admissible refund amount comes to '0'. The calculation was made taking into account ITC of Rs. 215715/- as per Statement 1A filed with refund application. The appellant in their submission contended that as per Statement 1A the total ITC was CGST of Rs.378281/-and SGST of Rs.378281/- but due to technical glitches few invoices of inward supplies were not reflecting on the side of the adjudicating authority in GSTN Portal and hence ITC of Rs.215715/- was taken. They also contended that ITC as per GSTR2A was Rs.370316/- CGST and Rs.370316/- SGST; as per Annexure B it was Rs.733197/- by excluding ITC of input services and capital goods. In this regard to take a clear stand on the issue I have obtained copy of Statement 01A and Annexure B filed with refund claim from the office of the adjudicating authority via email dated 11-1-2022. I have also verified copy of GSTR3B and GSTR2A for the claim period submitted by the appellant. The above documents showed the availed during the claim period as under :



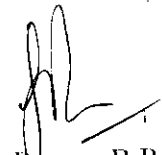
ITC availed as per GSTR3B return	745070/-
GSTR2A filed with appeal	740632/-
Statement 01A submitted by office of the adjudicating authority (inputs, input services and capital goods)	756562/-
Annexure B statement submitted by office of the adjudicating authority (on inputs)	733198/-

6. As per above table statement 01A filed with refund claim shows ITC of Rs.756562/- availed on inputs, inputs services and capital goods and Annexure B shows ITC of Rs.733198/- availed on inputs only. Similarly GSTR2A and GSTR3B also shows ITC of Rs.740632/- and Rs.745070/- respectively. In view of above, I find that ITC of Rs.215715/- taken for determining admissible refund amount in the impugned order on the basis of Statement 1A filed with the refund claim is without any basis and factually incorrect. It also transpires that except Statement 01A no other documents filed with refund claim showing ITC was verified or co-related which should have avoided the present issue. On the other hand I also notice that the appellant has taken ITC of Rs.745070/- for determining refund amount as per GSTR3B return whereas ITC availed on inputs as per Annexure B was only Rs.733198/- which I find is also factually not correct. As per meaning of Net ITC given under Rule 89 (5) of CGST Rules, 2017 Net ITC covers only ITC availed on inputs. Further as per para 5.2 of CBIC Circular No.135/05/2020 – GST dated 31-3-2020, it was clarified that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant. Accordingly in this case appellant will be entitled to refund taking into account ITC availed on inputs on invoices which are reflected in GSTR2A returns only. In the subject case there is no dispute to admissibility of refund but the admissible refund was determined as '0'. As per documents submitted with the refund application and documents submitted by the appellant, I find that there is factual error on the part of adjudicating authority in adopting ITC of Rs.215715/- and thereby arriving the admissible amount as '0'. Therefore, I hold that the impugned order passed by the adjudicating authority is not legally and factually correct. Accordingly I set aside the impugned order and allow the appeal.

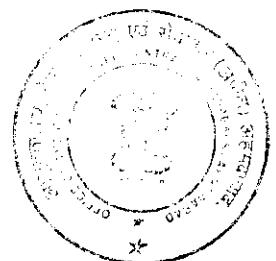
7. अपीलकर्ता द्वारा दर्ज की गई अपील को निपटारा उपरोक्त तरीके से किया जाता है।
The appeal filed by the appellant stand disposed off in above terms.


(Mihir Rayka)
Additional Commissioner (Appeals)

Date :
Attested


(Sankar Kaman B.P.)
Superintendent
Central Tax (Appeals),
Ahmedabad
By RPAD

To,
M/s.Rangrej Dyeing, 218/2,
Sikander Market, Opp Style Wash Factory,
Dani Limda, Ahmedabad 380 022



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 I, Ahmedabad South
- 5) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 6) ~~Guard File~~
- 7) PA file

