



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**  
**07926305065- टेलीफैक्स 07926305136**



DIN-202201645W0000008B15

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/560/2021-APPEAL / 5544 TO 5849  
 ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-001-APP-ADC-109/2021-22  
 दिनांक Date : 19-01-2022 जारी करने की तारीख Date of Issue : 19-01-2022

श्री मिहिर रायका\_अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. ZV2401210001157 दिनांक: 01-01-2021 issued by  
 Deputy Commissioner, CGST, Division V(Odhav), Ahmedabad South

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent  
**Shri Samkit Ashokkumar Bagrecha of M/s. Navkar Polymers, 76,**  
**Krishna Industrial Estate, SP Ring Road, Odhav, Ahmedabad-382415**

(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**

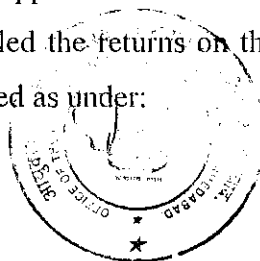
Shri Samkit Ashokkumar Bagrecha of M/s.Navkar Polymers, 76, Krishna Industrial Estate, SP Ring Road, Odhav, Ahmedabad 382 415 (hereinafter referred to as 'the appellant') has filed the present appeal on dated 8-3-2021 against Order No.ZV2401210001157 dated 1-1-2021 (hereinafter referred to as 'the impugned order') passed by the Deputy Commissioner, Division V 9 (Odhav), Ahmedabad South (hereinafter referred to as 'the adjudicating authority').

2. Briefly stated the fact of the case is that the appellant registered under GSTIN 24BASP3923L1ZK filed refund application for refund of Rs.147168/-in respect of supply made under deemed export. The appellant was issued show cause notice No.ZR412200055646 dated 4-12-2020 proposing rejection of the claim on the ground of delay in refund application and application seems to be time barred. The adjudicating authority vide impugned order held that refund is inadmissible on the ground of delay in refund application and on the ground that the documents called for have not been provided.

3. Being aggrieved the appellant filed the present appeal on the ground that they had provided clarifications sought for in the show cause notice via online mode and explained the concerned officer and hence it cannot be concluded as non compliance with show cause notice. Hence they requested to set aside the rejection order and sanction the refund.

4. Personal hearing was held on dated 12-1-2022. Shri Vikash Madanlal Agrawal, authorized representative appeared on behalf of the appellant on virtual mode. He stated that he has nothing more to add to their written submission till date. However the appellant via email dated 12-1-2022 filed additional submission wherein they stated that they had filed application of refund for the period April 2019 to October 2019 on 29-10-2020 which was within the time limit of two years given under Section 54 of CGST Act, 2017 and that there was no delay in filing of refund application and hence SCN and order is null and void.

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 refund application was filed on 29-10-2020 for refund of supply made under deemed export for the period April 2019 to August 2019, which was rejected due to delay in filing refund application. As per Section 54 (1) of CGST Act, 2017 the due date for filing of refund application is two years from relevant date. As per Explanation (2) (b) of Section 54 the relevant date in the case of supply of goods regarded as deemed export is prescribed as the date on which the return relating to such deemed exports is furnished. I find that during appeal the appellant has submitted GSTR3B and GSTR1 returns for the claim period as per which they had filed the returns on the following date. Accordingly the due date for filing refund claim is ascertained as under:



Month	Date of filing of GSTR3B return	Date of filing of GSTR1 return	Due date for filing refund claim
April 2019	20-5-2019	10-5-2019	19-5-2021
May 2019	17-6-2019	10-6-2019	16-6-2021
June 2019	15-7-2019	11-7-2019	14-7-2021
July 2019	19-8-2019	10-8-2019	18-8-2021
August 2019	10-9-2019	9-9-2019	9-9-2021
September 2019	18-10-2019	9-10-2019	17-10-2021
October 2019	16-11-2019	7-11-2019	15-11-2021

7. As per above table the claim filed on 29-10-2020 is well within the time limit prescribed under Section 54 of CGST Act, 2017. I further notice that the claim was also held to be inadmissible due to non submission of documents called for from the appellant. However in this case neither any deficiency memo was issued nor any document was called for in the show cause notice. Hence this ground mentioned in the impugned order is beyond the scope of show cause notice and without putting the appellant to notice.


8. In view of above I hold that the refund claim filed on 29-10-2020 is within the time limit prescribed under Section 54 of the CGST Act 2017 and not time barred. I further notice no other grounds or reason for rejection of refund was mentioned in the impugned order which indicate that except on time limitation factor the refund is otherwise admissible to the appellant. Accordingly I set aside the impugned order and allow the appeal filed by the appellant.

9. अपीलकर्ता द्वारा दर्ज की गई अपील को न्यायाधीश द्वारा 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 Raman B.P.)  
Superintendent  
Central Tax (Appeals),  
Ahmedabad  
By RPAD

To,  
Shri Samkit Ashokkumar Bagrecha  
of M/s.Navkar Polymers,  
76, Krishna Industrial Estate,  
SP Ring Road, Odhav,  
Ahmedabad 382 415



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 Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 5) The Assistant Commissioner, Division V (Odhav), Ahmedabad South
- 6) Guard File
- 7) PA file