



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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रजिस्टर्ड डाक ए.डी. द्वारा

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क फाइल संख्या : File No : GAPPL/ADC/GSTP/1127, 1432, 1434, 1431, 1433, 1430/2021-APPEAL

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-115/2021-22**

दिनांक Date : **09-02-2022** जारी करने की तारीख Date of Issue : **09-02-2022**

श्री मिहिर रायका अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. **ZR2405210487351 DT. 27.05.2021, ZS2405210487751 DT. 27.05.2021, ZS2405210487584 DT. 27.05.2021, ZR2405210487440 DT. 27.05.2021, ZY2405210487639 DT. 27.05.2021 & ZZ2405210487695 DT. 27.05.2021** issued by Deputy Commissioner, Division V (Odhav), Ahmedabad South

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

M/s. Arvind R Jain (HUF) of M/s. Adeshwar Steel, 21, Vijay Estate, Nr Bhiksuk Gruh, 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) 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.
(iii)	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.Arvind R Jain (HUF) of M/s.Adeshwar Steel, 21, Vijay Estate, Nr Bhiksuk Gruh, Odhav, Ahmedabad 382 415 (hereinafter referred to as 'the appellant') has filed six appeals against Orders passed by the Deputy Commissioner, Division V (Odhav), Ahmedabad South (hereinafter referred to as 'the adjudicating authority') rejecting refund claim filed by them. The details are as under :

Sr No.	Appeal File No.	Date filing of appeal	Impugned Order No and date	Refund claim amount
1	GAPPL/ADC/GSTP/1127/2021	25-6-2021	ZR2405210487351/27-5-2021	8,05,336/-
2	GAPPL/ADC/GSTP/1432/2021	28-7-2021	ZS2405210487751/27-5-2021	1,44,026/-
3	GAPPL/ADC/GSTP/1434/2021	28-7-2021	ZS2405210487584/27-5-2021	9,12,762/-
4	GAPPL/ADC/GSTP/1431/2021	28-7-2021	ZR2405210487440/27-5-2021	52,976/-
5	GAPPL/ADC/GSTP/1433/2021	28-7-2021	ZY2405210487639/27-5-2021	1,85,922/-
6	GAPPL/ADC/GSTP/1430/2021	28-7-2021	ZZ2405210487695/27-5-2021	38,967/-

2/ Briefly stated the fact of the case is that the appellant has filed refund claim for refund of ITC accumulated due to inverted tax structure. The appellant was issued show cause notice proposing rejection of refund claim asking them to provide authenticated GSTR2A duly signed. The adjudicating authority vide impugned orders held that the claim is inadmissible on the ground that GSTR2A submitted is not legible.

3. Being aggrieved the appellant filed the present appeals on the ground that at the time of filing of online refund application there is a limit of size for uploading documents, due to this they could not upload the legible documents while filing application. They had also submitted copy of GSTR2A duly signed.

4. Personal hearing was held on dated 19-1-2022. Shri Dhaval R Movaliya, 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.

5. I have carefully gone through the facts of the case, grounds of appeal, submissions made by the appellant and documents available on record. I find that in these appeals the refund claim was rejected on the sole ground of illegible submission of GSTR2A. During appeal the appellant has furnished signed copy of GSTR2A which is very legible and clear as per which the total ITC is as under :

Sr No.	Appeal File No.	ITC as per RFD 01	ITC as per GSTR2A submitted in appeal
1	GAPPL/ADC/GSTP/1127/2021	2998980/-	2999498/-
2	GAPPL/ADC/GSTP/1432/2021	914423/-	915779/-
3	GAPPL/ADC/GSTP/1434/2021	3398610/-	3420564/-
4	GAPPL/ADC/GSTP/1431/2021	908660/-	913463/-
5	GAPPL/ADC/GSTP/1433/2021	1073938/-	1073935/-
6	GAPPL/ADC/GSTP/1430/2021	251454	251454

6. In view of above since the appellant has submitted legible and signed copy of GSTR2A, I find that the appellant has complied with the requirement raised in show cause notice and impugned order. I further note that in the show cause notice issued to the appellant copy of authenticated GSTR2A duly signed was called for and non submission of the same was taken as ground for rejection of refund claim. As per Rule 92 of CGST Rules, 2017 in such case the proper course of action to be initiated is by way of issuing a deficiency memo and not through show cause notice. I further notice that except non submission of legible copy of GSTR2A, no other grounds or reason for rejection of refund was mentioned in the impugned order. Since the requirement of submission of legible and signed copy of GSTR2A has now been complied with by the appellant, I set aside the impugned order and allow this appeal restoring their entitlement for refund subject to submission of legible and signed copy of GSTR2A by the appellant and verification of the same by the sanctioning authority. Accordingly, I set aside the impugned order and allow the appeals filed by the appellant.

7. अपील कर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।


The appeals 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 RPAO

To,

M/s.Arvind R Jain (HUF) of M/s.Adesliwar Steel,
21, Vijay Estate, Nr Bhiksuk Gruh,
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 Assistant Commissioner, CGST, Division V-(Odhav), Ahmedabad South
- 5) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 6) Guard File
- 7) PA file

