



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-20220264SW000000FABE

रजिस्टर्ड डाक/ए.डी. द्वारा

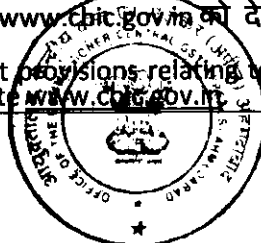
क फाइल संख्या : File No : GAPPL/ADC/GSTP/1129/2021-APPEAL / 6090 - 95

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-116/2021-22**  
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. **ZT2405210487839** दिनांक: **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. Arson Industries, 40, Ground Floor,**  
**Gopinath Estate -2, 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 - (ii) <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**

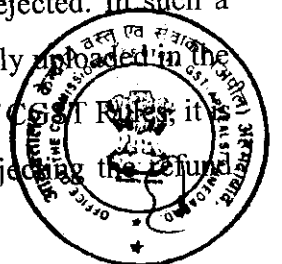
M/s.Arson Industires, 40, Ground Floor, Gopinath Estate 2, Odhav, Ahmedabad 382 415 (hereinafter referred to as 'the appellant') has filed the present appeal on dated 25-6-2021 against Order No.ZT2405210487839 dated 27-5-2021 (hereinafter referred to as 'the impugned order') passed by the Deputy Commissioner, CGST, Division V (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 24BBUPP9860R1ZA, has filed refund claim for Rs.16,47,436/- on account of ITC accumulated due to inverted duty structure for the period from January 2021 to March 2021. The appellant was issued show cause notice No.ZQ2405210379306 dated 21-5-2021 proposing rejection of the claim amounting to Rs.7,26,668/- due to mis match of ITC as ITC availed was in excess of ITC available in GSTR2A. The appellant filed reply to the show cause notice on dated 25-5-2021. The adjudicating authority vide impugned order held that refund of Rs.7,26,668/- was inadmissible due to mis match of ITC and further on the ground that compliance to SCN not made/not visible on the portal.

3. Being aggrieved the appellant filed the present appeal on the ground that the adjudicating authority has failed in Law and on facts without clarifying the exact reasons of rejection as both the reasons are vague in itself. If SCN reply was not made then there is no question of visibility of reply. The officer has rejected the refund with pre determined mind without verifying their reply submitted online with reply reference number ZQ2405210379306. The officer has failed in Law and on facts as all invoices for which ITC claimed are eligible invoices and all such invoices are appearing in GSTR2A. The only clerical error was total of all such ITC was not correctly made which does not defeat the right of the applicant to get refund of eligible ITC. In view of above submissions the appellant requested to allow their appeal and quash and set aside the impugned order in the interest of justice with consequential relief.

4. Personal hearing was held on dated 19-1-2022. Shri Dhaval 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, ground of appeal, submissions made by the appellant and documents available on record. I find that the adjudicating authority has rejected the refund to the extent of Rs.7,26,668/- due to reason that compliance to SCN not made/not visible on the portal. I find the findings itself is very contradictory inasmuch as it does not pin point as to whether the appellant has not filed reply to SCN or filed reply to SCN but it is not visible on portal. However, I find from GST portal and from the records that the appellant has filed reply to SCN on dated 25-5-2021 under reference No.ZQ2405210379306. Therefore it transpires that due to invisibility of reply to the adjudicating authority in the portal the refund was rejected. In such a situation the adjudicating authority could have obtained a physical copy of the reply uploaded in the portal and verified the same. As per above provisions of sub rule (3) of Rule 92 of CGST Rules, it is a mandatory requirement to record the reasons in writing for passing Order rejecting the refund.



7. In view of above discussions, I find that there is strong force in the contention of the appellant that the impugned order is vague without clarifying the exact reason for rejection of refund. Therefore, I find just and fair to set aside the impugned order and allow this appeal. I further hold that admissibility of refund, in consequence to this order, will be subject to submission of legible and signed copy of GSTR2A and further verification by sanctioning authority and in accordance with provisions of CGST Act and Rules made thereunder. Accordingly I set aside the impugned order and allow the appeal filed by the appellant.

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

M/s.Arson Industires,  
40, Ground Floor, Gopinath Estate 2,  
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 Dy./Assistant Commissioner, CGST, Division V, Ahmedabad South
- 5) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 6) Guard File
- 7) PA file

