



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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टेलीफैक्स 07926305136



DIN-20220264SW0000555F37

रजिस्टर्ड डाक ए.डी. द्वारा

फाइल संख्या : File No : GAPPL/ADC/GSTP/166/2021-APPEAL/6267 - 22
अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-117/2021-22**
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)

Arising out of Order-in-Original No. **CGST/WS08/Ref/Demand/10/MK/2020-21** दिनांक:
03-11-2020 issued by Assistant Commissioner, Division VIII, Ahmedabad South

अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
**M/s. Ensol, B-1, 1201, Westgate Business Bay, Opp Andaz Party Plot,
SG Highway, Makarba, Ahmedabad-380051**

(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

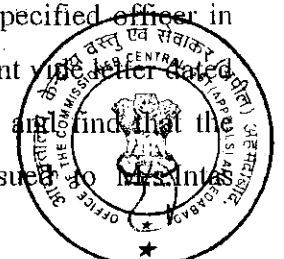
M/s.Ensol, B 1-1201, Westgate Business Bay, Opp Andas Party Plot, SG Highway, Makarba, Ahmedabad 380 051 (hereinafter referred to as 'the appellant') has filed the present appeal on dated 25-1-2021 against Order No.CGST/WS08/Ref/Demand/10/MK/2020-2021 dated 3-11-2020 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner, CGST, Division VIII, Ahmedabad South (hereinafter referred to as 'the adjudicating authority').

2. Briefly stated the fact of the case is that the appellant, registered under GSTIN No.24AADFE7890S1ZH, has filed refund claim for Rs.2,52,041/- in respect of tax paid on supply made to SEZ Unit viz M/s.Intas Pharmaceuticals Ltd., Ahmedabad. The Assistant Commissioner, Central GST, Division VIII, Ahmedabad vide OIO No.CGST/WS08/Ref-200/BSM/2018-2019 dated 12-3-2019 has sanctioned refund to the appellant. On examining the Order during post audit it was observed that the in terms of Rule 89 of CGST Rules, 2017, the appellant has not submitted copy of invoices duly endorsed by the specified officer of the Zone certifying that the goods have been admitted in full in the SEZ for its authorized operations and therefore the adjudicating authority has wrongly sanctioned refund to the appellant. On appeal filed by the Department, the Commissioner (Appeals) vide OIA No.AHM/EXCUS/001/APP/JC/01/ 2020 dated 15-4-2020 has set aside the OIO dated 12-3-2019 to the extent of erroneously sanctioned the refund. Simultaneously protective demand was also issued on dated 24-1-2020 to the appellant for recovery of erroneously sanctioned refund. Since the order of Commissioner (Appeals) is in favor of the Department, the adjudicating authority vide impugned order has ordered recovery of erroneously sanctioned refund of Rs.252041/- under Section 73 of CGST Act, 2017 along with interest under Section 50 of CGST Act, 2017.

3. Being aggrieved the appellant filed the present appeal on the ground that initially there is problem with endorsement of two invoices and since they got notice from Department regarding the same they constantly in touch with 'Intas Pharmaceuticals Ltd' to get endorsed the same at the earliest and finally they got endorsed copy as on 8-1-2021. The appellant vide letter dated 8-1-2021 attached copy of such endorsed invoices.

4. Personal hearing was held on dated 30-12-2021. Shri Vishal Patel, 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 and submission made by the appellant. I find that in this case the refund of Rs.2,52,041/- sanctioned to the appellant was ordered for recovery on the only ground that the appellant has not submitted copy of invoices issued for supply of services to SEZ unit duly endorsed by the specified officer in terms of Rule 89 of CGST Rules, 2017. During appeal proceedings the appellant vide letter dated 8-1-2021 has submitted copy of such invoices. I have scrutinized the same and find that the appellant has submitted Invoice No.EN/RI/17-18/201 dated 14-3-2018 issued to Intas Pharmaceuticals Ltd.



Pharmaceutical Ltd, Sanand, Ahmedabad, SEZ Unit, for Labour Bill for chilled water and cooling water involving IGST of Rs.1,49,447/- and Invoice No.ER/RI/17-18/115 dated 14-3-2018 for SS and CS Installation work involving IGST of Rs.1,02,594/-. (Total IGST Rs.2,53,041/-). Both the invoice contains endorsement by specified officer of SEZ Unit endorsing that the services were availed for authorized operations. I further notice that the endorsement was made on dated 15-2-2020 ie after issuance of impugned order. The genuineness of endorsement made in the invoices was also confirmed by the Specified Officer, Pharmaceutical SEZ, Ahmedabad vide letter File No.ZIPL/SEZ/Intas/Amendment/2020 dated 20-1-2022. Therefore, I hold that since the appellant has furnished the relevant invoices, duly endorsed by the specified officer, the appellant has fulfilled the requirement under Rule 89 of CGST Rules, 2017 for entitlement of refund claimed by them. Consequently the impugned order, ordering recovery of refund sanctioned to the appellant on the ground of non submission of endorsed copy of invoices is no longer sustainable. Accordingly I allow the appeal and set aside the impugned order.


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

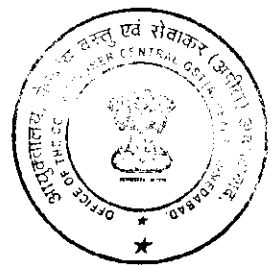
6. The appeal filed by the appellant stands disposed of in above terms.


(Mihir Rayka)

Additional Commissioner (Appeals)

Date :
Attested


(Sankara Raman B.P.)
Superintendent
Central Tax (Appeals),
Ahmedabad
By RPAD



To,
M/s.Ensol,
B 1-1201, Westgate Business Bay,
Opp Andas Party Plot,
SG Highway, Makarba,
Ahmedabad 380 051

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 Deputy Commissioner, CGST, Division VIII Ahmedabad South
- 5) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 6) Guard File
- 7) PA file

