



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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टैलेफैक्स 07926305136



DIN-20220264SW0000222F9E

रजिस्टर्ड डाक ए.डी. द्वारा

क. फाइल संख्या : File No : GAPPL/ADC/GSTP/211/2022-APPEAL / 696-6401  
ख. अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-124/2021-22**  
दिनांक Date : **17-02-2022** जारी करने की तारीख Date of Issue : **17-02-2022**

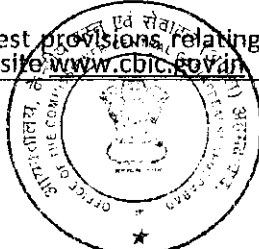
श्री मिहिर रायका\_अपर आयुक्त (अपील) द्वारा पारित

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

ग. Arising out of Order-in-Original No. **ZV2403210369204** दिनांक: **25-03-2021** issued by Assistant Commissioner, Division I (Rakhial), Ahmedabad South

घ. अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent  
**M/s. Ananyaa Retails Pvt. Ltd., Block V, Unit 3, Samet Business Part,  
Nr. Pariskar, Khokhra Circle, Amraiwadi, Ahmedabad-380008**

|       |   |
|-------|---|
| (A)   | इस आदेश(अपील) से व्यथित कोई व्यक्ति निम्नलिखित तरीके में उपयुक्त प्राधिकारी / प्राधिकरण के समक्ष अपील दायर कर सकता है।<br>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 -<br>(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<br>(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।<br>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.Ananyaa Retails Pvt.Ltd., Block V, Unit 3, Samet Business Part, Nr. Pariskar, Khokhra Circle, Amraiwadi, Ahmedabad 380 008 (hereinafter referred to as the appellant) has filed the present appeal via online on dated 21-5-2021 and in physical form on dated 13-1-2022 against Order No.ZV2403210369204 dated 25-3-2021 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner, CGST, Division I (Rakhial), Ahmedabad South (hereinafter referred to as 'the adjudicating authority') rejecting refund claim for Rs.36,18,095/- filed by the appellant for refund of ITC accumulated on input services under inverted tax structure.

2. Briefly stated the facts of the case is that the appellant, registered under GSTIN 24AARCA7463P1ZV, has filed refund applications for refund of Input Tax Credit accumulated due to inverted tax structure in terms of Section 54 of CGST Act, 2017. The appellant was issued show cause notice proposing rejection of refund on the ground that ITC of input service is not admissible for refund claim. The adjudicating authority vide impugned orders has rejected the refund claim with remark that reply to SCN is not satisfactory and not acceptable. Being aggrieved the appellant filed the above appeal mainly relying on Hon'ble Gujarat High Court's Order dated 24-7-2020 in the case of M/s.VKC Footsteps India P.ltd Vs UOI.

3. During appeal proceedings the appellant submitted letter dated Nil on 20-1-2022, wherein they stated that based on recent judgment by Hon'ble Supreme Court in Civil Appeal No.4811/ of 2021 dated 13-9-2021 wherein the decision is not favor of the assessee, they withdraw the appeal and requested to dispose off the appeal and re-credit amount of refund rejected in their electronic credit ledger.

4. I have carefully gone through the facts of the case grounds of appeal and submission made by the appellant. In this case the refund claim amount rejected by the adjudicating authority pertains to ITC involved on input services which are excluded for computation of net ITC under Rule 89 (5) of CGST Rules, 2017. Hon'ble High Court vide its order dated 27-4-2020 held that the Explanation to Rule 89 (5) of CGST Rules, 2017 which denies unutilized input tax paid on input services as part of ITC accumulated on account of inverted tax structure ultra vires the provisions of Section 54 (3) of CGST Act, 2017 directed the Department to grant refund. In appeal filed by the Department before Hon'ble Supreme Court, Hon'ble Supreme Court vide common Order dated 13-9-2021 has set aside the Order passed by the Hon'ble High Court of Gujarat. Thus the appeals filed by the appellant relying on Hon'ble High Court's decision no longer sustainable. However, since the appellant has voluntarily and unconditionally withdrawn their appeal, I dismiss the appeal as withdrawn by the appellant.

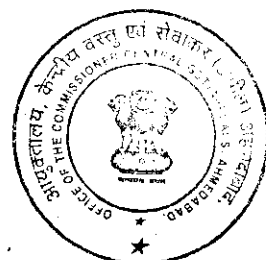
अपील कर्था द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

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

Date :  
Attested

(Sankara Rangan B.P.)  
Superintendent  
Central Tax (Appeals),  
Ahmedabad

(Mihir Rayka)  
Additional Commissioner (Appeals)



By RPAD,

To,

M/s. Ananyaa Retails Pvt. Ltd.,  
Block V, Unit 3, Samet Business Part,  
Nr. Pariskar, Khokhra Circle,  
Amraiwadi, Ahmedabad-380008

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

