



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-

टेलिफैक्स 07926305136



DIN-20220264SW000000D112

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTD/6/2021-APPEAL / 6286 - 91
ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-127/2021-22**
दिनांक Date : **18-02-2022** जारी करने की तारीख Date of Issue : **18-02-2022**

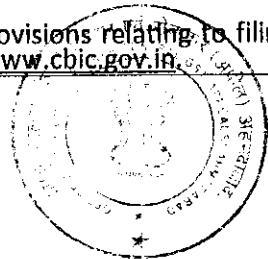
श्री मिहिर रायका_अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. **WS06/Ref-09/Shambu/DR/2020-2021** दिनांक: **07-07-2020** issued by Deputy Commissioner, Division VI, Ahmedabad South

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
Deputy Commissioner, Division VI, Ahmedabad South

(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 .



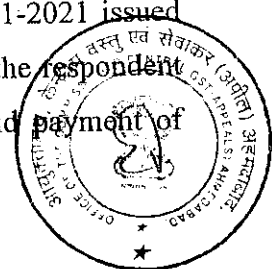
ORDER IN APPEAL

Deputy Commissioner, CGST Division VI, Ahmedabad South (hereinafter referred to as 'the appellant') has filed the present appeal on dated 29-1-2021 against Order No.WS06/Ref-09/Shambu/DR/2020-2021 dated 7-7-2020 passed by the Deputy Commissioner, CGST, Division VI, Ahmedabad (hereinafter referred to as 'the adjudicating authority') sanctioning refund of Rs.184384/- to M/s.Shambhu Prasad and Sons, Dwiroop, Opp Lal Bunglow, Nr.Sumit Hotel CG Road, Ellisbridge, Ahmedabad 380 006 (hereinafter referred to as 'the respondent')

2. Briefly stated the fact of the case is that the respondent has filed refund claim of Rs.1,84,384/- for the month of October 2017 for refund of ITC on account of export of services without payment of tax. The respondent was sanctioned provisional refund vide sanction order No.201/2018-2019 dated 29-10-2018. A show cause notice No.WS06/GST/Ref-12/Shambhu/2019-2020 dated 5-12-2019 was issued to the respondent for which the respondent submitted reply on dated 1-7-2020. On the basis of turnover of zero rated supply of goods, adjusted total turnover and net ITC as per GSTR3B return the respondent claimed refund of Rs.1,84,384/- against which provisional refund of Rs.1,65,946/- was sanctioned vide Sanction Order No.201/2018-2019 dated 29-10-2018 and remaining amount of Rs.18,438/- was also sanctioned vide impugned order. During post audit it was observed that as per GSTR3B the adjusted turnover tax was Rs.24,76,894/- ; as per RFD 01 the export turnover was Rs.22,53,406/- but as per statement 3 the respondent has claimed refund for Shipping Bill bearing No.9541673 dated 28-10-2017 amounting to Rs.4,16,461/- only. Further as per para 9.1 of Circular No.37/11/2018-GST dated 15-3-2018 the FOB value of exported goods as stated in above shipping Bill was Rs.3,52,260/-. Taking into account above, the eligible refund amount comes to Rs.46,984/- against refund of Rs.1,84,384/- resulting in sanction of refund of Rs.1,37,400/- in excess. Therefore it was found that the adjudicating authority has erred in sanctioning excess refund of Rs.1,37,400/- which is not eligible to the respondent.

3. In view of above the appellant filed the subject appeal on following grounds :

- i) The adjudicating authority erred in sanctioning the excess refund of Rs.137400/- and the same was not eligible to the respondent ;
- ii) In terms of Para 9.1 of Circular No.37/11/2018-GST dated 15-3-2018 it was clarified that during processing of the refund claim, the value of the goods declared in the GST invoice and the value in the corresponding shipping/bill of export should be examined and the lower of the two values should be sanctioned as refund.
- iii) As per above clarification the eligible refund amount comes to Rs.46,984/- in place of Rs.1,84,384/- resulting in sanction of Rs.1,37,400/- in excess ;
- iv) The adjudicating authority has erred by sanctioning excess refund of Rs.137400/-
- v) As per letter file No. CGST/D VI/WS -06/Ref-Misc/2018-2019 dated 20-1-2021 issued by Joint Commissioner (In situ) Division Vi, CGST, Ahmedabad South, the respondent vide their email dated 20-1-2021 informed that they had voluntarily paid payment of interest on refund amount excess given to them.



vi) In view of above, the impugned order was found not proper and legal and hence as authorized by the Principal Commissioner, CGST, Ahmedabad South the appellant filed the subject appeal to set aside the impugned order sanctioning excess refund of Rs.1,37,400/-.

4. Personal hearing was fixed on 14-12-2021, 13-1-2022 and 17-2-2022. No one appeared either on behalf of the appellant or on behalf of the respondent.

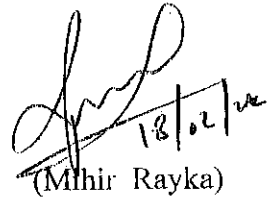
5. During appeal proceedings, the respondent vide letter dated 5-1-2022 informed that they had already paid interest against said OIO vide DRC filed on dated 20-1-2021. It was further requested to drop the proceedings initiated against them in the interest of justice. They further informed that they do not require personal hearing and decide the case keeping a liberated view.

6. On further enquiry with the office of the adjudicating authority it was informed vide letter File No. WS06/CGST/Ref/Misc/2019-2020 dated 17-1-2022 that the appellant has paid excess claim amount of Rs.1,84,334/- vide DRC debit entry No.DC2408200285263 dated 27-8-2020.

7. I have carefully gone through the facts of the case, ground of appeal, and documents available on record. In this case appeal was filed to set aside the impugned order on the ground that the adjudicating authority has sanctioned refund of Rs.1,84,384/- to the respondent by wrongly adopting the value of export turnover and adjusted turnover for arriving the admissible refund amount and thereby in place of admissible refund of Rs.46984/-, refund of Rs.184384/- was sanctioned resulting in excess sanction of refund of Rs.137400/-. From the facts of the case, I notice that the respondent has paid excess refund of Rs.137400/- vide DRC03 debit entry No.DC2408200285263 dated 27-8-2020 and also paid interest of Rs.17821/- vide DRC03 entry No.DC2401210306617 dated 20-1-2020. It is further observed that the appellant has filed appeal to set aside the impugned order sanctioning refund to the extent of Rs.137400/- only. Since the respondent has paid back the excess refunded amount along with interest I find that no further recovery is required in this case. Therefore, I set aside the impugned order sanctioning refund to the extent of Rs.137400/- and allow the appeal filed by the appellant.

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

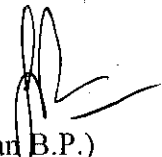
8. The appeal filed by the appellant stands disposed of in above terms.

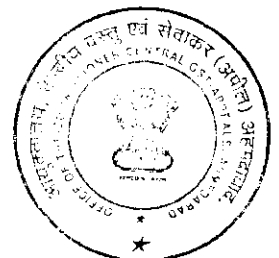

(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested


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



By RPAD,

To,

Deputy Commissioner,
CGST Division-VI,
Ahmedabad South

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) M/s. Shambhu Prasad and Sons, Dwiroop, Opp Lal Bunglow, Nr. Sumit Hotel CG Road,
Ellisbridge, Ahmedabad-380006
- ✓ 6) Guard File
- 7) PA file

