



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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DIN-20220364SW000062196C

रजिस्टर्ड डाक ए.डी. द्वारा

- क फाइल संख्या : File No : GAPPL/ADC/GSTP/676/2021 -APPEAL / 6711 - 16
- ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-140/2021-22**
दिनांक Date : **16-03-2022** जारी करने की तारीख Date of Issue : **21-03-2022**
- श्री मिहिर रायका_अपर आयुक्त (अपील) द्वारा पारित
Passed by Shri. Mihir Rayka, Additional Commissioner (Appeals)
- ग Arising out of Order-in-Original No. **ZZ2401210067624** dated **8-1-2021** issued by Deputy Commissioner, CGST, Division V, Ahmedabad South
- घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
**Shri Mukesh Manilalji Shah of M/s.Monarch Corporation, 529,
Phase II, GIDC Kathwada Road, No,15, Odhav, Ahmedabad**

(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

Shri Mukesh Manilalji Shah of M/s.Monarch Corporation, '529, Phase II, GIDC Kathwada Road, No.15, Odhav, Ahmedabad (hereinafter referred to as 'the appellant') has filed the present appeal on dated 6-4-2021 against Order No.ZZ2401210067624 dated 8-1-2021 (hereinafter referred to as 'the impugned Order) passed by the Deputy Commissioner, CGST Division V, Ahmedabad South (hereinafter referred to as 'the adjudicating authority).

2. Briefly stated the fact of the case is that the appellant, registered under GSTIN 24AIQPS6609H3ZR, has filed refund application for refund of Rs.9,34,586/- on account of supplies made to SEZ unit without payment of tax. The appellant was issued show cause notice No.ZY2412200319480 dated 31-12-2020 proposing rejection of the claim asking them to provide SEZ invalidation and invoices. The adjudicating authority vide impugned order held that refund of Rs.9,34,586/- is inadmissible to the appellant on the reason that the taxpayer in their reply have claimed to provide the documents, however no documents have been attached since it is a time bound matter the refund is not allowed.

3. Being aggrieved the appellant filed the present appeal on the following grounds :
The impugned order passed by the adjudicating authority is not proper, correct and legal inasmuch as it is passed without considering the submission made by them; they had submitted all refund documents like GSTR1, GSTR3B, GSTR2A, Annexure B, Statement 5, Statement 5A, all types of declaration, RFD 01A, SEZ invoice with endorsement ; considering the above submissions the appellant has correctly filed refund application. In view of above the appellant requested to allow the refund application.

4. Personal hearing was held on dated 4-3-2022. Shri Alpesh 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, submissions made by the appellant and documents available on record. In this case refund claim was rejected on the sole ground of non submission of endorsed copy of invoices issued for supply made to SEZ unit. The appellant stated that they had submitted all relevant documents including endorsed copy of invoices but the adjudicating authority held that such invoices are not found attached with their reply to show cause notice. In this regard I have verified Form GST RFD 09 dated 31-12-2020 vide which the appellant had filed reply to the show cause notice and find that in reply to SCN the appellant has stated that they had attached SEZ invoices but the relevant column for 'supporting documents' show that *no supporting documents found*. Therefore, it stand confirmed that the appellant has not attached the same along with reply to show cause notice. I further find that as per Rule 89 (2) of CGST Rules, 2017, in case of supply made to SEZ units/developers it is mandatory requirement on the part of clamant to submit documentary evidence indicating that the supply of goods/services is for authorized operations of SEZ unit duly endorsed by the proper officer of the particular SEZ. In view of above, since the appellant has not submitted endorsed

copy of invoice issued for supply made to SEZ unit either at the time of filing of refund application or in reply to show cause notice, I do not find any infirmity in the impugned order passed by the adjudicating authority rejecting the claim on the above ground.

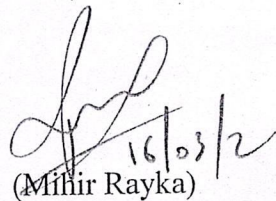
6. However, during appeal, the appellant has submitted photocopy of following invoices issued for supply made to SEZ unit.

Sl No.	Invoice No. and date	Value	Sl No.	Invoice No. and date	Value
1	201/1-7-2019	326250	16	302/16-8-2019	85000
2	208/4-7-2019	245000	17	304/17-8-2019	297000
3	230/12-7-2019	176500	18	305/17-8-2019	65250
4	231/12-7-2019	90500	19	316/21-8-2019	257400
5	234/15-7-2019	245000	20	318/22-8-2019	326250
6	243/19-7-2019	294300	21	332/28-8-2019	210000
7	247/22-7-2019	326250	22	333/28-8-2019	27250
8	251/24-7-2019	166600	23	334/28-8-2019	127500
9	252/24-7-2019	11200	24	354/10-9-2019	246340
10	273/31-7-2019	294300	25	355/10-9-2019	78000
11	282/5-8-2019	252800	26	377/19-9-2019	153200
12	290/10-8-2019	245000	27	384/23-9-2019	326250
13	291/10-8-2019	326250	28	393/26-9-2019	143100
14	300/16-8-2019	216000	29	398/28-9-2019	251500
15	301/16-8-2019	54500			

7. On scrutiny of the same I find that all the invoices contain endorsement by proper officer of SEZ unit, which fulfills the requirement raised in the impugned order. Therefore subject to verification of original copy of all such invoices with supporting documents, I hold that the appellant is entitled for refund. Accordingly I set aside the impugned order and allow the appeal filed by the appellant.

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

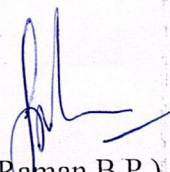
The appeal filed by the appellant stands disposed of in above terms.


(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested


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

To,

Shri Mukesh Manilalji Shah
of M/s.Monarch Corporation,
529, Phase II, GIDC Kathwada Road,
No.15, Odhav, Ahmedabad



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) The Asst./Deputy Commissioner, CGST, Division-V, Ahmedabad South
- 2 6) Guard File
- 7) PA file

