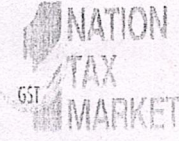




आयुक्त ( अपील ) का कार्यालय,  
Office of the Commissioner (Appeal),  
केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद



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

रजिस्टर्ड डाक ए.डी. द्वारा

(DIN:- 20210764-SW0000046114-

क फाइल संख्या : File No : GAPPL/ADC/8/2020 / 2291 To 2298

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-001-APP-ADC-15/21-22

दिनांक Date : 15-07-2021 जारी करने की तारीख Date of Issue 2007-2021

श्री मोहित अग्रवाल, अपर आयुक्त (अपील) द्वारा पारित

Passed by Shri. Mohit Agrawal, Additioanl Commissioner (Appeals)

ग Arising out of Order-in-Original No. ZU2405200022416 दिनांक: 04.05.2020 issued by Assistant Commissioner, Central GST, Division-I, Ahmedabad-South

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent

M/s : Bansal Textile Mills, 233, New Cloth Market, Opp. Raipur Gate, Sarangpur, Ahmedabad-380002.

(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) <u>Full amount of Tax, Interest, Fine, Fee and Penalty</u> arising from the impugned order, as is admitted/accepted by the appellant, and (ii) A sum equal to <u>twenty five per cent</u> 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. Bansal Textile Mills (GSTN:24AAJFB9187A2ZH), 233, New Cloth Market, Opp Raipur Gate, Sarangpur, Ahmedabad-380002 (*hereinafter referred to as 'appellant'*) filed the present appeal against the Order No. ZU2405200022416 dated 04/05/2020 (*hereinafter referred to as 'impugned order'*) passed by the Deputy Commissioner, Central GST, Div-I (Rakhial), Ahmedabad-South (*hereinafter referred to as 'adjudicating authority'*).

2. The facts of the case, in brief, are that the appellant filed refund amounting to Rs. 4,49,366/- under Section 54 of the CGST Act, 2017 on account of ITC accumulated due to Inverted Tax Structure for the month of November-2019 which was rejected under the impugned order with the remark-*"The claimant contention is not acceptable. The claimant has not followed the procedure prescribed under Notification 49/2019-CT DT. 09.10.2019. Accordingly, refund amount of Rs. 449366/- is rejected as per Section 54(3) of CGST Act, 2017"*.

3. Being aggrieved with the impugned order, the appellant preferred this appeal on the following grounds:

- a. Notification No. 49/2019-CT dated 09.10.2019 is a notification containing the amendment made in the CGST rules and does not laid any specific procedure of refunds.
- b. Refund order is bad in law since it does not contained any section under which the refund application is rejected;
- c. Refund application rejected without providing opportunity of being heard.
- d. Refund application rejected without providing proper details in deficiency memo.
- e. Refund application rejected without providing proper details in SCN. Learned Dy. Comm. has erred in law and facts of the cases by rejecting the entire refund application without conveying the specific non-compliance of the provision as contained in the Notification No. 49/2019 CT dated 09.10.2019.
- f. The said notification is a detailed notification containing more than 15 amendments in the CGST Rules. Further your appellant would also like to state that the necessary provisions for refund are contained in rule 89 of CGST rules and there is no mentioning or reference in respect of rule 89 in all those amendments mentioned in the said notification.



4. A personal hearing in the matter was held on 18.06.2021. Shri Kunal Agrawal, CA appeared before me for personal hearing on dated 18.06.2021 on behalf of appellant through video conferencing mode in appeal no. GAPPL/ADC/8/2020-Appeal. He re-iterated submission made in appeal memorandum and requested to consider their appeal.
5. I have carefully gone through the facts of the case on record, grounds of appeal and the submissions made by the appellant. The issue to be decided in the present appeal is whether the impugned order rejecting the refund claim is correct or otherwise.
6. Prima facie, I find that the appellant had filed aforesaid refund claim under Section 54 of CGST Act, 2017 on account of ITC accumulated due to Inverted Tax Structure for the month of November-2019. I find that the adjudicating authority has rejected refund claim on the basis that the appellant has not followed the procedure prescribed under Notification 49/2019-CT dated. 09.10.2019. Further, I find that the appellant has mentioned in grounds of appeal that the refund is admissible as per Section 54 of the CGST Act, 2017 and rules made there under. In this context, I find that the adjudicating authority has erred in law and facts of the cases by rejecting the entire refund application without conveying the specific non-compliance of the provision as contained in the Notification No. 49/2019-CT dated 09.10.2019. Further, I find that the appellant has also submitted Form GSTR-3B for the month of November-2019 in which Net ITC available is total Rs. 16,44,207/-. The appellant has also submitted GSTR-2A for the month of November-2019 in which Net ITC available is total Rs. 16,40,129/-. In view of the above, the appellant is admissible for refund as per Section 54(3) of the CGST Act, 2017 read with Rule 89(5) of CGST Rules, 2017.
7. In this context, it is revealed from the impugned order and statement of facts in appeal memorandum that the refund claim was rejected without quoting the relevant section. I find that the Notification No. 49/2019-CT dated 09.10.2019 is a Notification containing the amendment in CGST rules and I find that it does not lay down any specific procedure for refund. Further, I find that the notice for rejection of application for refund and impugned order did not contain any reference of a particular condition, which the appellant did not follow. I find that the adjudicating authority is required to mention specifically, which procedure was not followed by the appellant. Therefore, in view of above observation, I find force in the arguments of the appellant. I therefore, observe that the rejection of refund to the claimant is faulty and unlawful and hence the impugned order is not maintainable to that extent.



8. In view of the discussions above, I reject the ground of the impugned order based on which the refund claim of the appellant is rejected and allow the appeal filed by the appellant to the extent the issue of procedure under Notification No. 49/2019-CT dated 09.10.2019 as discussed above, without going in to merit of all other aspects, which is required to be complied by the claimant in term of Section 54(3) of the CGST Act,2017 read with Rule 89(5) of the CGST Rules,2017.

9. The appeal filed by the appellant stand disposed off in above terms.

अपीलकर्ता द्वारा दर्ज की गयी अपील का निपटारा उपरोक्त तरीके से किया जाता है !

*Mohit Agrwal*  
15/7/21

(मोहित अग्रवाल)

अपर आयुक्त(अपील्स)

दिनांक : 15-07-2021

Attested

*B.S. Meena*

(B.S. Meena)

Superintendent (Appeals)

CGST, Ahmedabad.

By R.P.A.D.

To,

M/s. Bansal Textile Mills

(GSTN:24AAJFB9187A2ZH),

233, New Cloth Market, Opp Raipur Gate,

Sarangpur, Ahmedabad-380002

Copy to:

1. The Chief Commissioner, Central Tax, Ahmedabad Zone .
2. The Commissioner(Appeals), CGST, Ahmedabad
3. The Commissioner, Central Tax, Ahmedabad-South.
4. The Assistant Commissioner CGST, Div-I (Rakhial), Ahmedabad-South.
5. The Assistant Commissioner, System, Central Tax, Ahmedabad-South
6. Guard File.
7. P.A.

