



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-202203645W000000551E

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/2297/2021-APPEAL / 7215-7220

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-160/2021-22**
दिनांक Date : **30-03-2022** जारी करने की तारीख Date of Issue : **30-03-2022**

श्री मिहिर रायका_अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. **ZP2409210338311 DT. 25.09.2021** issued by
Deputy Commissioner, CGST, Division V, Ahmedabad South

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

**M/s. Jyot Elastic, GF 25 to 26, Darshak Diamond Centre,
B/H, Anil Starch Mill, Bapunagar, Ahmedabad-380024**

(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.Jyot Elastic, GF 25 to 26, Darshak Diamond Centre, Bapunagar, Ahmedabad 380 024 (hereinafter referred to as 'the appellant') has filed the present appeal on dated 1-10-2021 against Order No.ZP2409210338311 dated 25-9-2021 (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 fact of the case is that the appellant registered under GSTIN 24CPAPB0808L1ZC, has filed refund application for refund of Rs.499808/- on account of ITC accumulated due to inverted tax structure under Section 54 of the CGST Act, 2017. The appellant was issued show cause notice No.ZS2408210253743 dated 18-8-2021 proposing rejection of refund due to wrong inverted turnover. The appellant filed replied to show cause notice on dated 13-9-2021. The adjudicating authority vide impugned order held that refund is inadmissible to the appellant.

3. Being aggrieved the appellant filed the present appeal on the ground that the Department has issued refund rejection order on the ground that Department has remarked as 'sanctioned' and due to system glitches refund gets rejected. The officer had failed in Law and on facts without clarifying the exact reason of rejection as both reasons are vague in itself. In view of above submission the appellant requested to allow the appeal and to quash and set aside the impugned order with consequential relief.

4. The appellant vide letter dated 28-3-2022 requested to decide the appeal as per ground of appeal and waived opportunity of personal hearing. Therefore I proceed to decide the case ex-parte on merits.

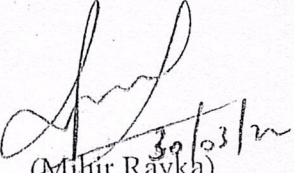
5. I have carefully gone through the facts of the case, grounds of appeal, submission made by the appellant and documents available on record. I have scrutinized the impugned order and find that refund of Rs.4,99,808/- was shown as inadmissible under head 'other'. However at remarks portion it was mentioned as 'sanctioned'. Therefore I find a contradiction in the order passed by the adjudicating authority. Therefore to ascertain the factual status, an enquiry was made with the jurisdictional Divisional Office and it was informed vide letter File No.V/Div/GST refund/Misc/2021-22 dated 23-3-2022 that refund claim of the appellant was sanctioned at their end but due to system glitch/error in AIO the calculation table may not have updated. Hence the amount of refund was shown as inadmissible. In view of above it is clear that there is no dispute with regard to admissibility of refund and it was already sanctioned by the sanctioning authority. However, due to technical glitch/error since the claim amount was shown as inadmissible in the order and consequently admissible refund was not paid to the appellant. Since the refund was already sanctioned, I hold that no further discussion is warranted in this appeal on merits. However, as the sanctioned refund was not paid to the appellant due to error



and in impugned order, I hold that the impugned deserve to be set aside so that the appellant is benefitted with refund due to them. Accordingly I set aside the impugned order and allow this appeal.

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

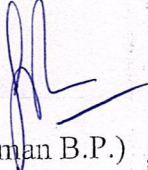
6. The appeal filed by the appellant stands disposed of in above terms.


(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested


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

To,

M/s.Jyot Elastic,
GF 25 to 26, Darshak Diamond Centre,
Bapunagar, Ahmedabad 380 024

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

