



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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टेलीफैक्स 07926305136



DIN-20220364SW0000505192

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/2453 & 2454/2021 -APPEAL /57 -62

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-166/2021-22**
दिनांक Date : **31-03-2022** जारी करने की तारीख Date of Issue : **31-03-2022**

श्री मिहिर रायका_अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. **ZX2403210428837 Dt. 30.03.2021 & ZW2404210316594 dated 27.04.2021** issued by the Deputy Commissioner, Division IV, Narol, Ahmedabad South

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

**Maruti Denim Block No. 371, Paldi Kankaj Gaam,
Taluka Dascroi, Ahmedabad-382425**

(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.Maruti Denim, Block no.371, Paldi Kankaj Gam, Daskroi Taluka, Ahmedabad 382 425 (hereinafter referred to as 'the appellant') has filed the present appeals on dated 22-11-2021 against Order No.ZY2403210428748 dated 30-3-2021 and Order No.ZX2403210428837 dated 30-3-2021 (hereinafter referred to as 'the impugned orders') passed by the Deputy Commissioner, Division IV, Narol, Ahmeabad (hereinafter referred to as 'the adjudicating authority').

2. Briefly stated the fact of the case is that the appellant registered under GSTIN 24ABMFM1290K1Z1 has filed refund application for Rs.10,94,162/- and Rs.10,33,332/- for refund of ITC accumulated due to inverted tax structure under Section 54 (3) of CGST Act, 2017. The appellant was issued show cause notice Ref No.ZS2403210359748 and ZR2403210360004 both dated 25-3-2021 proposing rejection of claim on the ground that ITC of job work/input services/maintenance services availed. The adjudicating authority vide impugned orders held that refund is inadmissible due to the reason that ITC of job work/input services/maintenance services availed.

3. Being aggrieved the appellant filed the present appeals wherein they contended that they had applied for refund under inverted tax structure ; that they a processing unit so their tax slab for output is 5% and input of chemical and other raw materials at higher rate ; so the fall in accumulated ITC in every month and claim refund ; that their claim was rejected by the adjudicating authority mentioning ITC of job work/services/maintenance work claimed ; that they deny this rejection as they claimed only ITC which are used for production of goods. In view of above submission the appellant requested to consider their appeal and grant them refund.

4. Personal hearing was held on dated 30-3-2022. Shri Sanni Shah, authorized representative appeared on behalf of the appellant on virtual mode. He stated that they have nothing more to add to their written submission till date.

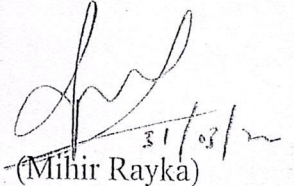
5. I have carefully gone through the facts of the case, ground of appeal, submissions made by the appellant and documents available on record. I find that the adjudicating authority has rejected the refund due to reason that the appellant has availed ITC of job wok/services/maintenance services availed. The provisions of CGST Act and Rules allow ITC of input services/capital goods. However as per Rule 89 (5) of CGST Rules, 2017, only the ITC availed on input need to be taken for Net ITC for arriving the admissible refund and ITC availed on input services/capital goods are not required to be considered for arriving admissible refund. I find that in the impugned orders rejection was ordered on the ground of 'availment' of ITC on services but not on the ground of 'claim' of ITC on such services for refund. From the documents viz. Refund application, Annexure B and GSTR2A submitted in appeal, I find that though the appellant has availed ITC on input services/ capital goods, they had considered ITC availed on inputs only for the purpose of arriving admissible refund in accordance with Rule 89 (5) of CGST Rules, 2017. Nevertheless even if the appellant has considered ITC availed on



input services/capital for arriving claim amount the sanctioning authority is empowered to sanction refund considering ITC availed on input only, rather than rejecting the entire amount of refund.

7. In view of above, I find that the adjudicating authority has rejected refund claim filed by the appellant without considering the actual facts and figures of the claim and thereby wrongly rejected the entire claim on the grounds mentioned in the impugned orders. Therefore, I hold that impugned orders are not legal and proper and deserve to be set aside. Accordingly, I set aside the impugned orders and allow the appeals filed by the appellant.

अपील कर्था द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।
8. The appeals filed by the appellant stands disposed of in above terms.

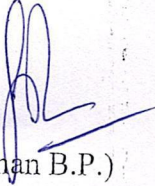

31/03/22

(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested



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



By RPAD
To,
M/s. Maruti Denim,
Block no.371, Paldi Kankaj Gam,
Daskroi Taluka,
Ahmedabad 382 425

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 Deputy Commissioner, CGST, Division IV (Narol) Ahmedabad South
- 5) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 6) Guard File
- 7) PA file

