



नियमेव जगते

आयुक्त (अपील) का कार्यालय,

Office of the Commissioner (Appeal),

केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद

Central GST, Appeal Commissionate, Ahmedabad

जोएसटी भवन, राजस्व मार्ग, अम्बावाड़ी, अहमदाबाद ૩૮૦૦૧૪.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad - 380015

फ़ोन : 07926305065

टेलेफ़ोन: 07926305136

**NATION
TAX
MARKET**

DIN: 20211064SW000081873E

रजिस्टर्ड बाक प.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/358/2021-APPEAL &
GAPPL/ADC/GSTP/359/2021-APPEAL / H203 TO H208

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अपील आदेश संख्या Order-in-Appeal Nos. AHM-CGST-001-APP/JC 57 to 58/2021-22
दिनांक Date : 29-10-2021 जारी करने की तारीख Date of Issue : 29-10-2021

श्री मिहिर रायका संचयुक्त आयुक्त (अपील) द्वारा पारित

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

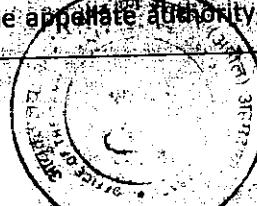
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Arising out of Order-in-Original No. Z22409200060943 दिनांक 04-09-2020 and
ZQ2412200046691 दिनांक 04-12-2020 issued by The Assistant Commissioner, CGST
Division VII (Satellite), Ahmedabad South

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अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
M/s. Nandan Terry Pvt. Ltd., 6th Floor, Chirpal House,
Shivranjani Cross Road, Satellite, Ahmedabad 380 015

(A)	इस आदेश(अपील) से व्यक्ति कोई व्यक्ति निश्चलिखित 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 दायर करने से जुबानित व्यापक, विस्तृत और महोन्नतम पारिधानों के लिए, अपीलार्थी विभागों द्वारा साइट www.cblc.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.cblc.gov.in .



ORDER IN APPEAL

M/s. Nandan Terry Pvt. Ltd., 5th Floor, Chiripal House, Shivrangjani Cross Road, Satellite, Ahmedabad - 380 015 (hereinafter referred to as "the appellant") has filed the following appeals against Orders (hereinafter referred to as "the impugned orders") passed by the Assistant Commissioner, CGST, Division VII (Satellite), Ahmedabad (hereinafter referred to as "the adjudicating authority") rejecting refund claim filed by the appellant for refund of ITC accumulated on input services under inverted tax structure.

Sr No.	Appeal File No.	Date of filing appeal	Impugned Order Number and date	Amount of refund Rejected
1	GAPPL/ADC/GSTP/358/2021	18-2-2021	ZZ2409200060943 DATED 4-9-2020	450899/-
2	GAPPL/ADC/GSTP/359/2021	18-2-2021	ZQ2412200046691 DATED 4-12-2020	189514/-

2. Briefly stated the facts of the case is that the appellant is registered under GSTN 24AAECN8555G1ZB. The appellant has filed refund applications for refund of Input Tax Credit accumulated due to inverted tax structure in terms of Section 54 of CGST Act, 2017. The adjudicating authority vide impugned orders mentioned in Table above has rejected part of claim amount on the following reasons:

Impugned Order No.	Reason for rejection
ZZ2409200060943	ITC accrued on input services claimed for refund. Hence eligible refund amount re-calculated excluding ITC accrued on input services as per Rule 89 (5) of CST Rules, 2017 and claim disposed accordingly.
ZQ2412200046691	ITC on invoices not reflected in Form GSTR 2A as per Circular No.135/05/2020 not allowed and accumulated ITC for input services, capital goods not allowed under Rule 89 (5) of CGST Rules, for computation of refund of ITC under inverted duty structure.

3. Being aggrieved the appellant filed the present appeals relying on Order dated 24-7-2020 passed by Hon'ble High Court of Gujarat's decision in the case of M/s VKC Footsteps India P.ltd Vs UOI and 2 others, to set aside the impugned orders and to allow entire refund claim amount.

4. I find that the said decision of Hon'ble High Court of Gujarat was challenged by the Department before the Hon'ble Supreme Court of India in Civil Appeal No.4810 of 2021. Hon'ble Supreme Court vide common Order dated 13-9-2021 has allowed the appeal filed by the Department and set aside the judgement passed by the Hon'ble High Court of Gujarat.



5. The appellant vide their letter dated NIL (received on 21-10-2021) has intimated that based on the judgement of Hon'ble Supreme Court in the case of UOI Vs M/s. VKC Footsteps India P. Ltd., wherein the case was settled against the assessee they wish to withdraw the above mentioned appeals. Since, the appellant has withdrawn the appeals, I dismiss the appeals as withdrawn by the appellant.

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

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

21/10/2021
(Mihir Rayka)

Joint Commissioner (Appeals)

Date :
Attested

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



By RPAD

To,
M/s. Nandan Terry Pvt. Ltd., 5th Floor,
Chiripal House, Shivranjani Cross Road,
Satellite, Ahmedabad 380 015.

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