



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-20211164SW0000007E9A

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/480/2020-APPEAL / 4458 70 4463
ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-JC-70/2021-22**
दिनांक Date : **22-11-2021** जारी करने की तारीख Date of Issue : **29-11-2021**

श्री मिहिर रायका संयुक्त आयुक्त (अपील) द्वारा पारित

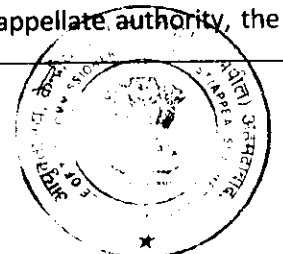
Passed by Shri. Mihir Rayka, Joint Commissioner (Appeals)

ग Arising out of Order-in-Original No **V/Div I/Ref-GST/199/Anjey/2019-2020** दिनांक: **4-8-2020** issued by Deputy Commissioner, CGST, Division I, Ahmedabad South

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

Smt. Ranjanbahen Prahaladbhai Thakker, Trade Name M/s. Anjney Tubes India, 305 to 307, Survey NO. 213, Opp Umiya Vijay Saw Mill, Station Road, At Nandej Barejadi, Ahmedabad 382435

(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

Smt. Ranjanbaben Prahaladbhai Thakker, Trade Name M/s. Anjney Tubes India, 305 to 307, Survey No. 213, Opp Umiya Vijay Saw Mill, Station Road, At Nandej Barejadi, Ahmedabad 382 435 (hereinafter referred to as 'the appellant') has filed the present claim on dated 4-11-2020 against Order No. V/Div I/Ref-GST/199/Anjney/2019-2020 dated 4-8-2020 (hereinafter referred to as 'the impugned order') passed by the Deputy Commissioner, CGST, Division I, Ahmedabad South (hereinafter referred to as the 'adjudicating authority').

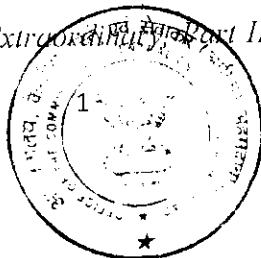
2. Briefly stated the fact of the case is that the appellant is registered under GSTIN 24AELPT7117C1Z7. The appellant has filed refund claim for Rs. 2,45,430/- on dated 24-8-2019 in respect of IGST paid on supply of capital goods to M/s. Blue Draft Business Ventures, LLP in the month of December 2018 under Notification No. 48/2017 against Advance Authorization which is considered as deemed export. The claim was rejected by the adjudicating authority vide impugned order on the ground that the appellant had not submitted the acknowledgement by the jurisdictional Tax officer of the Advance Authorization holder or Export Promotion Capital Goods Authorization holder, as the case may be, that the said deemed export supplies have been received by the said Advance Authorization holder or Export Promotion Capital Goods Authorization holder as required under Notification NO. 49/2017-Central Tax dated 18-10-2017 and also due to non appearance of the appellant in personal hearing.

3. Being aggrieved the appellant filed the present appeal on the ground that there was so many confusion in new GST Law and changes happened day by day. There are lot of difference of opinion and understanding from the side of appellant and assessing officers ; that due to Covid 2019 situation and state department has different type of working method there was delay in receiving the certificate from tax officer ; that they may be given one more opportunity to submit all required documents.

4. Personal hearing was held on 15-11-2021. Shri Pritesh Gandhi, Authorized Representative appeared on behalf of the appellant on virtual mode. He stated that he do not want to add to their written submission dated 4-11-2020. He further added a copy of acknowledgement received from the Assistant Commissioner of Sales Tax on which ground their refund application has been rejected.

5. I have carefully gone through the facts of the case, grounds of appeal and documents available on record. I find that the claim was rejected solely on the ground of non submission of acknowledgement by jurisdictional Tax Officer of Advance Authorization holder or Export Promotion Capital Goods Authorization holder, as the case may be, that the said deemed export supplies have been received by the said Advance Authorization holder or Export Promotion Capital Goods Authorization holder as required under Notification No. 49/2017-Central Tax dated 18-10-2017 as under :

In exercise of the powers conferred by clause (g) of sub-rule (2) of rule 89 of the Central Goods and Services Tax Rules, 2017 read with notification No. 48/2017-Central Tax, dated the 18th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number



G.S.R. 1305 (E), dated the 18th October, 2017, the Central Government hereby notifies the following, as detailed in column (2) of the Table below, as evidences which are required to be produced by the supplier of deemed export supplies for claiming refund, namely:-

TABLE

S	Evidence
1	Acknowledgment by the jurisdictional Tax officer of the Advance Authorisation holder or Export Promotion Capital Goods Authorisation holder, as the case may be, that the said deemed export supplies have been received by the said Advance Authorisation or Export Promotion Capital Goods Authorisation holder, or a copy of the tax invoice under which such supplies have been made by the supplier, duly signed by the recipient Export Oriented Unit that said deemed export supplies have been received by it.
2	An undertaking by the recipient of deemed export supplies that no input tax credit on such supplies been availed of by him
3	An undertaking by the recipient of deemed export supplies that he shall not claim the refund in respect of such supplies and the supplier may claim the refund.

6. In view of above, in terms of Notification No.49/2017, it is mandatory requirement to submit documents specified under col 1 to 3 above for claiming refund of tax paid on deemed export supplies. In the subject case, it is an admitted fact that the appellant has not submitted document at Sr.No.1 along with their refund claim due to which the claim was rejected by the adjudicating authority. However, during personal hearing the appellant has submitted a copy of certificate dated 30-9-2020 issued by Assistant Commissioner of State Tax under reference No. Ass. Comm/GST/Unit 10/OW No.5923 wherein it was certified that Ms./Blue Craft Business Ventures LLP has received the machineries supplied by M/s.Anjay Tubes India Ltd. Against EPCG Authorization No.0830010824 dated 26-11-2018 and Invalidation No.08/36/05980161/AM 19 dated 27-11-2018. I find that above certificate fulfills the requirement of document at Sr.No.1 of Table above. I further notice that said certificate was issued on dated 30-9-2020 which indicate that the appellant has received the said Certificate after issuance of impugned order. Since the claim was rejected solely on the ground of non submission of above document which has now been complied, I allow the appeal filed by the appellant.

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

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

Date :
Attested

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

22/11/20
Joint Commissioner (Appeals)
Ahmedabad

By RPAD

To,

Smt. Ranjanbaben Prahaladbhai Thakker,
M/s. Anjney Tubes India, 305 to 307,
Survey No. 213, Opp Umiya Vijay Saw Mill,
Station Road, At Nandej Barejadi, Ahmedabad 382435

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

