



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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रजिस्टर्ड डाक ए.डी. द्वारा

(DIN:-_20210664SW000000D5E1)

क फाइल संख्या : File No : GAPPL/ADC/GSTP/595/2020 /1556 701560

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-001-APP-ADC-08/21-22
दिनांक Date : 10-06-2021 जारी करने की तारीख Date of Issue : 11/06/2021

श्री मोहित अग्रवाल, अपर आयुक्त (अपील) द्वारा पारित
Passed by Shri. Mohit Agrawal, Additioanl Commissioner (Appeals)

ग Arising out of Order-in-Original No ZT2411200183812 दिनांक: 13.11.2020 issued by Assistant
Commissioner, Central GST, Division-I, Ahmedabad-South

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
M/s . Shree Shyam Industries, Plot No. 6&7, 3RD Floor, Ajmeri Farm no Khancho, Nr. Ambica
Factory, Suez-Farm, Pirana Road, Ahmedabad-380022.

(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

This order arises on account of an appeal filed by M/s. Shree Shyam Industries, Plot No. 6 & 7, 3rd Floor, Ajmeri Farm no khancho, Nr. Ambica Factory, Suez-Farm Pirana Road, Ahmedabad-380022 having GSTIN-24ADNFS1113Q1ZS (hereinafter referred as '*the appellant*') against the Refund Rejection Order in Form-GST-RFD-6 vide No. ZT2411200183812 dated 13.11.2020 (hereinafter referred as '*the impugned Order*') passed by the Assistant Commissioner, Central GST, Division-I (Rakhial), Commissionerate: Ahmedabad-South (hereinafter referred as '*the adjudicating authority*').

2. Facts of the case, in brief, are that the appellant is registered under the Central Goods and Service Tax Act, 2017 vide GST registration number 24ADNFS1113Q1ZS. The appellant vide application in GST-RFD-01 dated 24.09.2020 (ARN-AA2409200849323) submitted their claim for refund of an amount of Rs. 8,62,450/- for the period from January'2020 to March'2020 , on account of ITC accumulated due to Inverted Tax Structure under Section 54 of the CGST Act, 2017.

2.1 Thereafter, a Show Cause Notice No. ZN2410200319333 was issued in form RFD-08 dated 27.10.2020 was issued by the adjudicating authority to the appellant wherein the claim for refund was proposed to be rejected under Rule 92 of the CGST Rules, 2017. The grounds for the rejection as mentioned in the said show cause notice are reproduced below:

"GSTR-2A NOT UPLOADED. PROVISIONS OF NOTI. 75/19-CT DT. 26.12.19 ARE COMPLIED OR OTHERWISE. CLARIFY THE DIFFERENCE IN ADJ TOTAL T/O & INV RATED T/O & INV RATED T/O AND TAX PAID/PAYABLE IN RFD-01, ST-1A AND IN GSTR-1 & 3B".

The appellant was also directed to appear before the adjudicating authority on 04.11.2020 with an instruction that *"If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex parte on the basis of available records and on merits."*

2.2 In their reply in Form RFD-09 dated 07.11.2020 to the above mentioned Show Cause Notice, the appellant has submitted copies of GSTR



2A for the month of January, 2020 to March, 2020 alongwith working sheet of Turnover working.

2.3 The refund claim amounting to Rs. 8,62,450/- was rejected vide the impugned order by the adjudicating authority on the ground that "THE CLAIMANT DIDN'T CLARIFY ABOUT COMPLIANCE OF NOTI. 75/19-CT DT. 26.12.19. ACCORDINGLY, REFUND IS REJECTED FOR NON COMPLIANCE OF SCN U/S 54 OF CGST ACT, 2017."

3. Being aggrieved with the impugned order, the appellant preferred this appeal on the ground as reproduced below:

"The grounds on which the said order was passed is unjust since the clarifications sought for in SCN were provided via online mode and hence it cannot be concluded as non compliance with SCN issued and also, health issues and sudden demise of the concerned officer did not give a chance of explanation of facts to the concerned officer."

4. Virtual Hearing in the case was fixed on 31.03.2021. Shri R.S Dugar, Chartered Accountant attended hearing on behalf of the appellant. He has reiterated the submissions made in appeal memorandum and has also 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. In the present case, it is observed that the refund claim has been rejected by the adjudicating authority on the ground that the appellant has not clarified about the compliance of Notification No. 75/19-CT dated 26.12.2019.

5.1 In the present case, it is an undisputed fact that the appellant has submitted the copies of GSTR 2A for the month of January, 2020 to March, 2020 alongwith working sheet of Turnover working, to the adjudicating authority through online mode only, in response to the show cause notice issued to them. Similarly, as regards the clarification for compliance of Notification No. 75/19-CT dated 26.12.2019 also, as called for vide the show cause notice, they can submit the written submission through E-mail or even by post to the adjudicating authority. Accordingly, I find that the contention of the appellant that "due to sudden demise of the concerned officer they could not be able to explain the facts to the concerned officer" is not justifiable and hence, can not be accepted.



6. In view of the discussions made in the foregoing paras, I do not find any merit in the contention of the appellant so as to to interfere with the decision taken by the adjudicating authority vide the impugned order. Accordingly, the appeal filed by the appellant is rejected and upheld the impugned order passed by the adjudicating authority in the present case.

7. The appeals stand disposed off in above terms.

Mohit Agrawal
10/6/21

(MOHIT AGRAWAL)
Additional Commissioner,
CGST (Appeals), Ahmedabad.



Attested

M.P. Sisodiya
(M.P. Sisodiya)

Superintendent (Appeals)
Central GST, Ahmedabad

By Regd. Post A. D

M/s. Shree Shyam Industries,
Plot No. 6 & 7, 3rd Floor,
Ajmeri Farm no khancho,
Nr. Ambica Factory,
Suez-Farm Pirana Road,
Ahmedabad-380022

Copy to :

- 1 The Chief Commissioner, CGST, Ahmedabad.
- 2 The Principal Commissioner CGST, Ahmedabad-South.
3. The Deputy /Asstt. Commissioner, CGST, Division-I (Rakhial), Ahmedabad-South.
4. The Deputy/Asstt. Commissioner (Systems), CGST, Ahmedabad-South.
- ✓ 5. Guard file
6. PA File