



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, अम्बावाडी अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015

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DIN-202112645W000092449D

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/73/2020-APPEAL & GAPPL/ADC/GSTP/74/2020-APPEAL /5135 70 5140

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-JC-84/2021-22**

दिनांक Date : **13-12-2021** जारी करने की तारीख Date of Issue : **14-12-2021**

श्री मिहिर रायका संयुक्त आयुक्त (अपील) द्वारा पारित

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

Arising out of Order-in-Original No. **ZP2410200129677 DT. 12.10.2020 &**

ZV2410200129433 DT. 12.10.2020

issued by Deputy Commissioner, CGST, Division VI, Ahmedabad South

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

**M/s. The Sandesh Limited, Sandesh Bhavan, Lad Society Road,
Bodakdev, Ahmedabad-380054**

(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

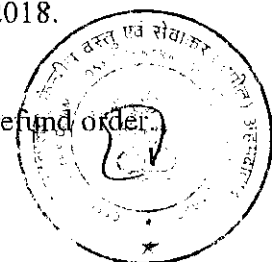
M/s.The Sandesh Limited, Sandesh Bhavan, Lad Society Road, Bodakdev, Ahmedabad 380 054 (hereinafter referred to as 'the appellant') has filed two appeals on dated 8-1-2021 against Order No. ZP2410200129677/12-10-2020 and ZV2410200129433/12-10-2020 (hereinafter referred to as 'the impugned Order') passed by the Deputy Commissioner, Division VI, Ahmedabad South (hereinafter referred to as 'the adjudicating authority') rejecting part amount of refund of Rs.13349/- and Rs.29913/- respectively claimed by them.

2. Briefly stated the fact of the case is that the appellant has supplied taxable service to Government parties under SAC 9983 during the FY 2018-2019. The appellant had published advertisements in the State of Gujarat and has charged IGST on such supplies instead of CGST and SGST as per Section 12 (14) of IGST Act read with Rule 3 of IGST Rules. On recognising the said error the appellant paid CGST and SGST in the month of June 2018 and claimed refund of IGST paid by them. The appellant was issued an SCN dated 23-9-2020 on the ground that invoices till the month of February 2018 are time barred and as per Rule 92 (1A), the amount of refund to be paid in cash proportionate to the amount debited in cash against the total amount paid for discharging the tax liability for the relevant period. The adjudicating authority vide impugned order sanctioned part amount of refund and rejected the remaining amount of refund on the ground that invoices for the period January 2018 and February 2018 are time barred.

3. Being aggrieved the appellant filed the present appeals on the following grounds :

- i) As against refund procedure laid down under Circular NO.125/44/2019-GST dated 18-11-2019 read with Rule 89 and 90 of CGST Rules, 2017, In the present case they were directly notice for rejecting refund is issued rather than issuing deficiency memo. This refund was in the nature of zero rated supply and therefore in absence of couple of additional required documents ideally deficiency memo should have been issued and non compliance to it should only lead to show cause notice for rejection of refund. However it is clear that said procedure was not followed in the given case giving rightful time to appellant to furnish required documents, Therefore on the basis of decision of Hon'ble Madhyapradesh High Court in the case of M/s.Shri Shyam Baba Edible Oils Vs Chief Commissioner, if mandatory procedures as per Rules are not followed the orders passed are bad in Law under GST.
- ii) That the appellant has been filing refund on month to month basis. While uploading the billing details for refund application, the format of the date has been changed. The excel file from which json file is generated to be uploaded is showing the date in proper format but the json file downloaded at the officer's point is showing different format. On account of the said reason, the officer seems to have rejected the refund for the invoices pertaining to June 2018 and July 018 considering it as invoices pertaining to January 2018.

iii) In view of above submission the appellant requested to issue refund order.

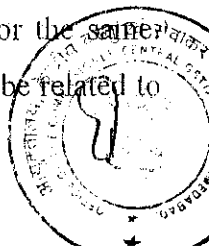


4. Shri Sanjay Kumar Tandon, Director of the appellant via email dated 6-12-2021 further submitted that while going through the sanction order they presume that date format mentioned while uploading the excel sheet has been changed and has been uploaded wrong ie format DD/MM/YY has been changed to MM/DD/YY ie dated 1-6-2018 has been changed to 6-1-2018 ; that this is a software issued and the appellant should not be held responsible for the same ; that the excel file from which json file is generated to be uploaded is showing the date in proper format but the json file downloaded at the officer's point is showing different format and that the said rejected bills pertaining to June and July 2018 were again claimed for refund along with the claim for refund for the bills related to the month of December 2018 and the same were accepted and the refund was approved, though the credit portion of the refund is yet to be credited to our ITC ledger byway of PMT 03. Hence they wish to withdraw the current appeals with a right to appeal again if the refund is rejected any time later on. They also requested for virtual hearing.

5. Personal hearing was held on 8-12-2021. Shri Sanjay Kumar Tandon, Director of the appellant appeared on virtual mode. He stated that he wants to give additional documents for which he was given three working days.

6. Accordingly, Shri Sanjay Kumar Tandon via email dated 13-12-2021 has made additional submissions as under :

- i) The appellant has supplied service under SAC 9983 to Government parties. Appellant has charged IGST on the same instead of CGST and SGST as per section 12(14) of IGST Act read with Rule 3 of IGST Rules. On recognising the said error the appellant has paid CGST and SGST vide DRC - 03 for the month of June-18 and July-18 and claimed refund for IGST (under the reason Tax paid on an intra-State supply which is subsequently held to be inter-State supply and vice versa) paid vide form RFD-01.
- ii) The officer against the said application issued a generic SCN on 23.09.2020 stating that the invoices till February-2018(without giving any specific detail of Invoices which he alleged to be referring to) are time barred and the amount of refund to be paid, in cash, proportionate to the amount debited in cash against the total amount paid for discharging tax liability for the relevant period. Copy of SCN and refund rejection order attached.
- iii) In reply to the said SCN it was submitted on 08.10.2020 by the appellant that the refund filed are all related to June-18 and July-2018 and none are related to February-2018 and also to grant the proportionate refund by way of cash in Form RFD 06 and the balance by way of crediting in the electronic credit ledger in Form GST PMT-03 at the earliest. Copy of reply attached.
- iv) Suddenly without informing us of their doubt of any specific invoice being referred to being Prior to February 2018 the office of Dy Commissioner issued the refund order on 12.10.2020 in which amount of Rs. 29913 and Rs. 13349 for June-2018 and July-2018 has been rejected stating that the said are related to January-2018 and the time has been barred for the same. Even the said Order did not mention of any specific invoices which he alluded to be related to January 2018.



- v) While going through the sanction order, on permutations and combinations we presume that date format mentioned while uploading the excel sheet has been changed at the time of unloading from Format DD/MM/YYYY to MM/DD/YYYY -For example Invoices related to date 01.07.2018 has been changed to 07.01.2018 and hence could have been rejected. The appellant has been filing the refund application on month to month basis and no two months has been clubbed. The part of the refund had been rejected without giving any opportunity and possibly due to some technical error at the time of unloading of files at the end of the department.
- vi) The said rejected bills pertaining to June and July, 2018 were again claimed for refund along with the claim of refund for the bills related to the month of Dec, 2018 and the same were accepted and the refund was approved, though credit portion of the refund is yet to be credited to our Input Credit Ledger by way PMT 03. Hence, we wish to withdraw the current appeal with a right to appeal again if the refund is rejected any time later on.


7. I have carefully gone through the facts of the case, grounds of appeal and submissions made by Shri Sanjay Kumar Tandon, Director of the appellant. In this case the appeals were filed against rejection of part amount of refund on time limitation factor. The appellant contended that due to change in date format of invoices while uploading the excel sheet, the part claim amount was wrongly rejected by the adjudicating authority. However, on going through additional submissions made in appeal proceedings, I find that the appellant has already claimed refund of IGST involved on rejected invoices along with refund claim for the month of December 2018 which was sanctioned but yet to be disbursed to them and due to said reason the appellant wish to withdraw the present appeals reserving their right to appeal if the refund is rejected any time later on. Since in the current proceedings, the appellant has voluntarily withdrawn the appeals, I do not record any further discussion on the issue and dismiss the appeals as withdrawn by the appeals.

8. अपीलकर्ता द्वारा दर्ज की गई अपील को निलंबित कर दिया गया है।
The appeals filed by the appellant stand disposed off in above terms.


(Mihir Rayka)

Joint Commissioner (Appeals)

Date :
Attested


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

To,
M/s. The Sandesh Limited,
Sandesh Bhavan, Lad Society Road,
Bodakdev, Ahmedabad 380 054



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

