



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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DIN NO. : 20210664SW000000E778

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/130/2020 /1689 TO 1694

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-001-APP-ADC-09/21-22
दिनांक Date : 16-06-2021 जारी करने की तारीख Date of Issue : 17-06-2021

श्री मोहित अग्रवाल अपर आयुक्त (अपील) द्वारा पारित

Passed by Shri. Mohit Agrawal, Additional Commissioner (Appeals)

ग Arising out of Order-in-Original No ZX2404200402837 all dated 22-04-2020 issued by Deputy Commissioner, Central GST, Division-VI-Vastrapur, Ahmedabad-South Commissionerate

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

M/s Amola Advertising (Sandip Navinchandra Shahi),

(GSTIN: 24AJRPS7713C2Z0)

304, Panchdeep Complex, Mithakhali Six Roads,

Navrangpura, Ahmedabad, Gujarat-9

(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. Amola Advertising having their office at 304, Panchdeep Complex, Mithakhali Six Roads, Navrangpura, Ahmedabad, Gujarat-380009 (hereinafter referred to as 'appellant') has filed present appeal against Order No. ZX2404200402837 dated 22.04.2020 passed in FORM-GST-RFD-06 (hereinafter referred to as 'impugned order') issued by the Deputy Commissioner, CGST, Division-VI-Vastrapur, Commissionerate-Ahmedabad-South(hereinafter referred to as '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 24AJRPS7713C2Z0. The appellant has applied for refund, for the month of March 2018 on dated 11.03.2020 for amounting to Rs. 29,057/- on account of excess payment of GST in FY 2017-18 which are liable for refund amounting to Rs. 29057/- IGST, the same has been reflected in Table 9 of GSTR-9. Further, a notice for rejection of application for refund was issued in FORM-GST-RFD-08 with a remark that "there is no such provision in the CGST Act, 2017 for refund on account of GSTR-3B liability is more than GSTR-1 in the Table-9 of GSTR-9". Further, the Adjudicating Authority rejected the refund claim of the appellant vide impugned order with a remark that "the claimant did not submit reply of SCN issued on 19.03.2020 till date (22.04.20). In view of this, the refund claim filed by the claimant rejected on the basis of the ground mentioned in SCN".

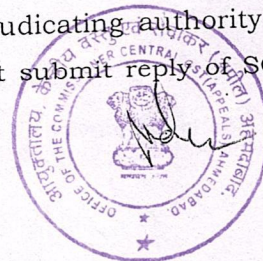
3. Being aggrieved with the impugned order, the appellant filed the present appeal wherein, inter alia, stated that:

- The refund rejected arbitrarily without following principle of natural justice;
- In circular no. 26/26/2017-GST dated 29.12.2017 wherein it is mentioned that in cases where adjustment is not feasible to do in GSTR 3B, refund may be claimed.
- Through Press Release on clarification regarding Annual Returns and Reconciliation statement dated 03.07.2019 it is stated that where tax was paid in excess it may be declared in the annual return and refund may be applied through FROM GST RFD-01A.
- The appellant is eligible for GST refund of excess payment of IGST amounting for the period July 2017 and March 2018.
- The refund is admissible as per Section 54(8)(e) of the CGST Act, 2017.

4. A personal hearing in the matter was held on 31.03.2021. Shri Bishan Shah (C.A.) appeared before me for personal hearing on dated 31.03.2021 on behalf of M/s Amola Advertising through video conferencing mode in appeal no. GAPPL/ADC/GSTP/130/2020. He re-iterated submission made in appeal memorandum and requested to consider their appeal. The appellant also requested to give written submission within 15 days.

5. I have gone through the records of the case, the impugned order, the grounds of appeal. The issue to be decided in the present appeal is whether the impugned order rejecting the refund claim is correct or otherwise.

6. Prima facie, I find that the appellant had filed aforesaid refund claim under Section 54 of CGST Act, 2017 on account of excess payment of GST in FY 2017-18 which are liable for refund amounting to Rs. 29057/- IGST, the same has been reflected in Table 9 of GSTR-9. I find that the adjudicating authority has rejected refund claim on the basis that the claimant did not submit reply of SCN issued on



19.03.2020 till date (22.04.20). In view of this, the refund claim filed by the claimant rejected on the basis of the ground mentioned in SCN. Further, I find that a notice for rejection of application for refund was issued in FORM-GST-RFD-08 with a remark that "there is no such provision in the CGST Act, 2017 for refund on account of GSTR-3B liability is more than GSTR-1 in the Table-9 of GSTR-9". Further, I find that the appellant has mentioned in grounds of appeal that the refund is admissible as per Section 54(8) of the CGST Act, 2017. In this context, before moving forward, let me first reproduce the relevant Section 54(8)(e) of CGST Act, 2017 which is re-produced here below.

Section 54(8) Notwithstanding anything contained in sub-section (5), the refundable amount shall, instead of being credited to the Fund, be paid to the applicant, if such amount is relatable to—

(a).....

.....

(e) *the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or*

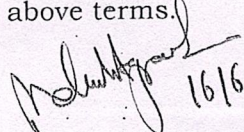
7. Further, I find that the adjudicating authority has given opportunity by issuing a notice for rejection of application of refund in FORM-GST-RFD-08. Further, I find that the adjudicating authority has clearly mentioned in the impugned order that the appellant did not submit reply of SCN. Hence, I observed that the adjudicating authority has therefore rightly decided the matter based on record which were available with him. I agree with the grounds raised by the adjudicating authority in the notice for rejection of application of refund in FORM-GST-RFD-08.

8. In view of the above, I do not find any force in the contentions of the appellant in respect of their claim. Further, I find that the appellant has not submitted the required documents and reply of SCN, in absence of which eligibility of refund cannot be determined.

9. Accordingly, I do not find any reason to interfere with the decision taken by the adjudicating authority vide "impugned order". In view of above discussion, I reject the appeal filed by the appellant.

10. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

The appeal filed by the appellant stand disposed off in above terms.


16/6/21

(मोहित अग्रवाल)

अपर आयुक्त(अपील्स)

Date : 16-06-2021

Attested



Superintendent (Appeals)

CGST, Ahmedabad.

By R.P.A.D.



To,

M/s. Amola Advertising(Sandip Navinchandra Shah)
(GSTIN: 24AJRPS7713C2Z0)
304, Panchdeep Complex, Mithakhali Six Roads,
Navrangpura, Ahmedabad, Gujarat-9

Copy to:

1. The Chief Commissioner, Central Tax, Ahmedabad Zone .
2. The Commissioner(Appeals), CGST, Ahmedabad
3. The Commissioner, Central Tax, Ahmedabad South.
4. The Assistant Commissioner CGST, Division-VI-Vastrapur – Ahmedabad South.
5. The Assistant Commissioner, System, Central Tax, Ahmedabad South.
- ✓ 6. Guard File.
7. P.A.

