



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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टेलीफैक्स 07926305136



DIN-20211264SW000000D940

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/1375/2021; 1372/2021; 2061/2021; 2062/2021;

2060/2021-APPEAL / 5294 T 0522 P

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-001-APP-JC-92/2021-22

दिनांक, Date : 21-12-2021 जारी करने की तारीख Date of Issue : 22-12-2021

श्री मिहिर रायका संयुक्त आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No ZR2405210447373 DT. 25.05.2021,

ZY2405210447595 DT. 25.05.2021, ZV2407210212597 DT. 16.07.2021,

ZO2407210349720 DT. 27.07.2021, ZN2408210297310 DT. 23.08.2021

issued by Dy./Assistant Commissioner, CGST, Division IV-Narol, Ahmedabad South

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

M/s. Kankaria Textile Industries Pvt. Ltd., Survey No. 91,

Pirana Road, Piplej, Ahmedabad-382405

(A)	<p>इस आदेश(अपील) से व्यथित कोई व्यक्ति निम्नलिखित तरीके में उपयुक्त प्राधिकारी / प्राधिकरण के समक्ष अपील दायर कर सकता है।</p> <p>Any person aggrieved by this Order-in-Appeal may file an appeal to the appropriate authority in the following way.</p>
(i)	<p>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.</p>
(ii)	<p>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</p>
(iii)	<p>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.</p>
(B)	<p>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.</p>
(i)	<p>Appeal to be filed before Appellate Tribunal under Section 112(8) of the CGST Act, 2017 after paying -</p> <p>(i) <b>Full amount of Tax, Interest, Fine, Fee and Penalty</b> arising from the impugned order, as is admitted/accepted by the appellant, and</p> <p>(ii) A sum equal to <b>twenty five per cent</b> 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.</p>
(iii)	<p>The Central Goods &amp; 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.</p>
(C)	<p>उच्च अपीलीय प्राधिकारी को अपील दायर करने से संबंधित व्यापक, विस्तृत और नवीनतम प्रावधानों के लिए, अपीलार्थी विभागीय वेबसाइट <a href="http://www.cgstic.gov.in">www.cgstic.gov.in</a> को देख सकते हैं।</p> <p>For elaborate, detailed and latest provisions relating to filing of appeal to the appellate authority, the appellant may refer to the website <a href="http://www.cgstic.gov.in">www.cgstic.gov.in</a>.</p>

### ORDER IN APPEAL

M/s.Kankaria Textile Industries Pvt.Ltd, Survey No.91, Pirana Road, Piplej, Ahmedabad 382 405 (hereinafter referred to as the appellant) has filed the following appeals against Orders (hereinafter referred to as 'the impugned orders') passed by the Deputy/Assistant Commissioner, CGST, Division IV (Narol), Ahmedabad South (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/1375/2021	20-7-2021	ZR2405210447373/25-5-2021	48435/-
2	GAPPL/ADC/GSTP/1372/2021	20-7-2021	ZY2405210447595/25-5-2021	188884/-
3	GAPPL/ADC/GSTP/2061/2021	15-9-2021	ZV2407210212597/16-7-2021	109070/-
4	GAPPL/ADC/GSTP/2062/2021	15-9-2021	ZO2407210349720/27-7-2021	280896/-
5	GAPPL/ADC/GSTP/2060/2021	15-9-2021	ZN2408210297310/23-8-2021	215394/-

2. Briefly stated the facts of the case is that the appellant is registered under GSTN 24AACCK9432D1ZS. 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 order has rejected part of claim which pertains to ITC involved on input services. Being aggrieved the appellant filed the above appeals mainly relying on Hon'ble Gujarat High Court's Order dated 24-7-2020 in the case of M/s.VKC Footsteps India P.ltd.

3. During appeal proceedings the appellant vide their letter dated 25-11-2021 informed that they unconditionally withdraw the above mentioned appeals and requested to pass Order to the said effect so that appropriate authority may follow the procedures prescribed under Rule 93 of CGST Act, 2017.

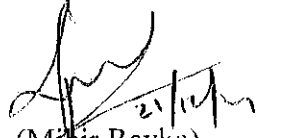
5. I have carefully gone through the facts of the case grounds of appeal and submission made by the appellant. In this case the refund claim amount rejected by the adjudicating authority pertains to ITC involved on input services which are excluded for computation of net ITC under Rule 89 (5) of CGST Rules, 2017. Hon'ble High Court vide its order dated 27-4-2020 held that the Explanation to Rule 89 (5) of CGST Rules, 2017 which denies unutilized input tax paid on input services as part of ITC accumulated on account of inverted tax structure ultra vires the provisions of Section 54 (3) of CGST Act, 2017 and directed the Department to allow claim of refund considering the unutilized ITC of input services as part of the Net ITC for the purpose of calculation of the refund of the claim as per Rule 89 (5) of CGST Rules, 2017 for claiming refund under sub Section 3 of Section 54 of CGST Act, 2017. In appeal filed by the Department before Hon'ble Supreme Court, Hon'ble Supreme Court vide common Order dated 13-9-2021



has set aside the judgment passed by the Hon'ble High Court of Gujarat. Thus the appeal filed by the appellant relying on Hon'ble High Court's decision no longer sustainable. However, since the appellant has voluntarily and unconditionally withdrawn their appeals, I dismiss the appeals as withdrawn by the appellant.

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

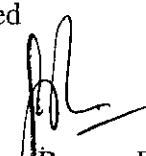
6. The appeals filed by the appellant stands disposed of in above terms.

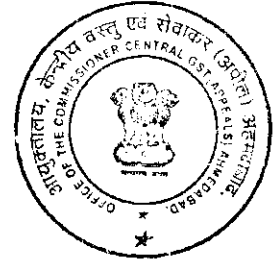
  
(Mihir Rayka)

Joint Commissioner (Appeals)

Date :

Attested

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



By RPAD

To,  
M/s.Kankaria Textile Industries Pvt.Ltd,  
Survey No.91, Pirana Road,  
Piplej,  
Ahmedabad 382 405

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