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

07926305065- टेलेफैक्स07926305136

सत्यमेव जयते

NATION TAX MARKET

DIN-20211264SW0000121021

रजिस्टर्ड डाक ए.डी. द्वारा

5540 To 5545

क फाइल संख्या : File No : GAPPL/ADC/GSTP/647/2020, 724/2020, 725/2020 & 1075/2021-APPEAL

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-JC-97/2021-22**
दिनांक Date : **28-12-2021** जारी करने की तारीख Date of Issue : **28-12-2021**

श्री मिहिर रायका_संयुक्त आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No **ZQ2409200311509 DT. 21.09.2020, ZU2409200311432 DT. 21.09.2020, ZR2410200036833 DT. 05.10.2020 & ZY2412200325635 DT. 31.12.2020** issued by Deputy Commissioner, CGST, Division IV(Narol), Ahmedabad South

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

M/s. Sinhal Brothers Textile Processors, Ranipur Patia, Opp Cozy Hotel, Narol-Vasna Highway, Narol, Ahmedabad-382405

(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 वेबसाइटwww.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.Sinhal Brothers Textile Processors, Ranipur Patia, Opp Cozy Hotel, Narol-Vasna Highway, Narol, 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/724/2020	21-12-2020	ZQ2409200311509/21-9-2020	160648/-
2	GAPPL/ADC/GSTP/725/2021	21-12-2020	ZU2409200311432/21-9-2020	89229/-
3	GAPPL/ADC/GSTP/647/2021	7-12-2020	ZR2410200036833/5-10-2020	89554/-
4	GAPPL/ADC/GSTP/1075/2021	21-6-2021	ZY2412200325635	46889/-

2. Briefly stated the facts of the case is that the appellant, registered under GSTIN 24AAMFS8786M1Z6, 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 orders 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 Vs UOI.

3. During appeal proceedings the appellant submitted letter dated Nil on 22-12-2021, wherein they stated that based on judgment of Hon'ble Supreme Court in the case of UOI Vs M/s.VKC Footsteps India Pvt.ltd. wherein the case was settled against the assessee they wish to withdraw the above mentioned appeals.

4. 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 appeals 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।

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

27/11/24

(Mihir Rayka)
Joint Commissioner (Appeals)

Date :
Attested

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

By RPAD
To,
M/s.Sinhal Brothers Textile Processors,
Ranipur Patia, Opp Cozy Hotel,
Narol-Vasna Highway,
Narol, 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