



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  
07926305065- टेलिफैक्स 07926305136



DIN- 20220964SW0000723778

रजिस्टर्ड डाक ए.डी. द्वारा

- क फाइल संख्या : File No : GAPPL/ADC/GSTP/1507/2022 -APPEAL /3338-40
- ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-117/2022-23**  
दिनांक Date : **08-09-2022** जारी करने की तारीख Date of Issue : **12-09-2022**  
श्री मिहिर रायका\_अपर आयुक्त (अपील) द्वारा पारित  
Passed by Shri. Mihir Rayka, Additional Commissioner (Appeals)
- ग Arising out of Order-in-Original No. **FAR No. 419/GST/2021-22** dated **31.01.2022**  
issued by Deputy Commissioner, Circle II, CGST Audit, Ahmedabad
- घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent  
**M/s. Dastan Dyeing & Printing Works,121/1, GIDC Suez Farm,  
Suez Farm Road,Behrampura, 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) <b>Full amount of Tax, Interest, Fine, Fee and Penalty</b> arising from the impugned order, as is admitted/accepted by the appellant, and (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.
(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 <a href="http://www.cbic.gov.in">www.cbic.gov.in</a> 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 <a href="http://www.cbic.gov.in">www.cbic.gov.in</a> .





## ORDER IN APPEAL

M/s./Dastan Dyeing and Printing Works, 121/1, GIDC Suez Farm, Behrampura, Ahmedabad 380 022 (hereinafter referred to as the appellant) registered under GSTIN 24AABFD5081D1ZX has filed the present appeal on dated 9-3-2022 against Final Audit Report NO.419/GST/2021-2022 dated 31-1-2022 issued by the Deputy Commissioner, Circle II, CGST Audit, Ahmedabad wherein during GST audit of the appellant, the Deputy Commissioner Audit has charged interest on difference between GSTR2A and ITC claimed in GSTR3B when all ITC has been reflected overall. The Deputy Commissioner has charged tax, interest and penalty on difference between GSTR1 and GSTR3B without considering the invoice amendments made in subsequent month and without considering that the same would have been reflected in GSTR9 and 9C ie Annual Return, Audit Report. The Deputy Commissioner has charged penalty on short payment of RCM without considering Section 73 (5), 73 (6), 73 (8) of CGST, 2017. Referring to various case laws, the appellant filed the present appeal to set aside the interest charged on difference between ITC claim in GSTR3B and GSTR2A of Rs.190019/- ; to set aside tax interest and penalty charged on difference between GSTR1 and GSTR3B of Rs.2910/- Tax + 1413/- interest and Rs.437/- penalty ; to set aside penalty charged on short RCM payment, where tax and interest has been duly paid before issuance of show cause notice of Rs.552/- penalty and to issue refund o tax, interest and penalty paid above with interest.

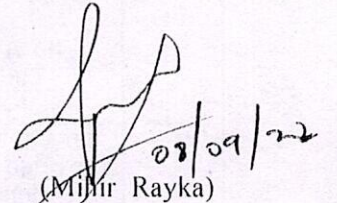
2. Personal hearing was held on dated 22-8-2022. Shri Rohan Shah, authorized representative appeared on behalf of the appellant on virtual mode. He stated that they have nothing more to add to their written submission till date.

3. During appeal proceedings, the appellant vide letter dated 29-8-2022 informed that they had filed the present appeal against GST audit report and since GST ADT 02 is not an adjudication order, so as to file appeal against the said in front of the first appellate authority. Hence they requested to withdraw the said appeal and requested to grant them liberty to put up the matter in front of the proper adjudicating authority.

4. I have carefully gone through the facts of the case, grounds of appeal and documents available on record. I find that the present appeal was filed against Final Audit Report (FAR) issued by Deputy Commissioner, CGST, Audit, Ahmedabad. As per Section 107 of CGST Act, 2017, any person aggrieved by any decision or order passed under CGST Act, SGST Act or UTGST Act can appeal before first Appellate Authority within such time prescribed. During appeal the appellant voluntarily withdrawn the present appeal due to reason that GST ADT 02 is not an adjudication order so as to file appeal before the first appellant authority and hence to seek remedy before appropriate authority. In view of above I dismiss the present appeal as withdrawn by the appellant.

अपील कर्थाद्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है |


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

  
(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested

  
JADAV  
Superintendent  
Central Tax (Appeals),





Ahmedabad  
By RPAD

To,

M/s./Dastan Dyeing and Printing Works,  
121/1, GIDC Suez Farm,  
Behrampura, Ahmedabad 380 022

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 Additional Commissioner, Central Tax (Systems), Ahmedabad South
- ✓ 5) Guard File
- 6) PA file

ote # 1

अपील याचिका के लिए जाँच सूची



