



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- 20220964SW000031363F

रजिस्टर्ड डाक ए.डी. द्वारा

3246-3251

क फाइल संख्या : File No : GAPPL/ADC/GSTD/170/2022 -APPEAL & GAPPL/ADC/GSTD/54/2022 - APPEAL

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC- 118 /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. **ZQ2406210243841 DT. 21.06.2021 & ZP2408210395187 DT. 30.08.2021**
issued by Assistant Commissioner, Division-VIII, Ahmedabad South

घ. अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
Assistant Commissioner,CGST, Division-VIII, Ahmedabad South

(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

The Assistant Commissioner, CGST, Division VIII, Ahmedabad South (hereinafter referred to as the appellant) has filed two appeals, offline in terms of Advisory NO.9/2020 dated 24-9-2020 issued by the Additional Director General (Systems), Bangaluru, on dated 9-12-2021 and on dated 14-2-2022 against Order No. ZQ2406210243841 dated 21-6-2021 and Order No.ZP2408210395187 dated 30-8-2021 (hereinafter referred to as the impugned order) passed by the Assistant Commissioner, CGST, Division VIII, Ahmedabad South (hereinafter referred to as the adjudicating authority sanctioning refund of Rs.13,14,769/- and Rs. 7,36,317/- respectively to M/s.U Square Life Science Private Limited A 1101, A 1102, A 1103, Solitaire Corporate Park, Beside Divya Bhaskar Press, SG Highway, Sarkhej, Ahmedabad 380 051 (hereinafter referred to as the respondent).

2. Briefly stated the fact of the case is that the respondent registered under GSTIN 24AAACU8986A1Z9 has filed refund claim for Rs/13,14,769/- and for Rs.7,36,317/- for refund of ITC accumulated due to export without payment of duty under Section 54 (3) of CGST Act, 2017 for the month of March 2021 and April 2021 respectively. After verification the adjudicating authority vide impugned order sanctioned refund to the respondent. During review of refund claim it was observed that the higher amount has been sanctioned to the respondent than what is actually admissible to them in terms of Rule 89 (4) of CGST Rules, 2017 read with Section 54 (3) of CGST Act, 2017.. The turnover of zero rated supply has been taken which is the invoice value of goods exported which is higher than the FOB value as per shipping bill. As per para 47 of Circular No.125/44/2019-GST dated 18-11-2019, it was clarified that during processing of refund claim, the value of goods declared in GST invoice and the value in the corresponding shipping bill/bill of export should be examined and the lower of the two values should be taken into account while calculating the eligible amount of refund. Thus taking the lower value of goods exported and applying the formula for refund of export without payment of duty the admissible refund comes to less than the refund sanctioned by the sanctioning authority and thus there is excess sanction of refund to the respondent which is required to be recovered along with interest. The details are as under :

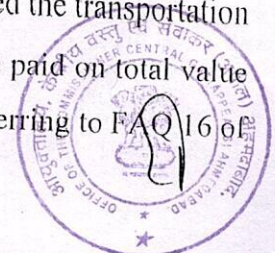
Month	T/O inverted rated supply of goods (invoice value)	T/O inverted rated supply of goods (FOB value which is lower value)	Adjusted total turnover	Net ITC	Maximum refund admissible	Amount of refund sanctioned	Excess refund sanctioned and to be recovered
March 2021	22634060	21271165	23251064	1425887	1304468	1314769	10301
April 2021	24868590	23789898	24869392	736342	704380	736317	31937

3. In view of above the appellant filed the present appeal on following grounds :

The adjudicating authority has considered higher value of turnover of zero rated supply which is the invoice value of goods exported instead of lower value of goods exported which is FOB value and on applying the formula for refund on lower value the admissible refund comes to less than the refund sanctioned by the adjudicating authority and hence excess refund sanctioned to the respondent is required to be recovered along with interest. The adjudicating authority has failed to consider the lower value of zero rated turnover while granting the refund claim in terms of Circular NO.125/44/2019-GST dated 18-11-2019 which has resulted in excess payment of refund to the respondent. In view of above the appellant prayed to set aside the impugned order and to pass order directing the original authority to demand and recover the amount erroneously refunded to the respondent and to pass any other order as deem fit in the interest of justice.

4. The respondent filed cross objection on dated 24-8-2022 wherein they interalia contended as under :

- i. They had rightly considered transaction value for computing refund. As per provisions of Section 15 of CGST ACT, 2017 read with Section 20 of IGST Act, 2017 the value of supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where supplier and recipient of the supply are not related and the price is the sole consideration for the supply. Provisions of Section 15 provides that any amount charged for anything done by the supplier in respect of supply of goods or services or both at the time of or before delivery of goods or supply of services shall be included in value. Accordingly they had rightly considered transaction value mentioned in the invoice for computation of refund under Rule 89 of CGST Rules, 2017.
- ii. As per CBIC Circular No.37/11/2018-GST dated 15-3-2018 read with Circular No.125/44/2019-GST dated 18-11-2019 it was clarified that zero rated supplies are effected under GST laws and thereby the value of supply shall be the invoice value (transaction value). Accordingly valuation of a supply both for supply within India and export of goods is governed by the provisions of Section 15 of GST Act only and there is no separate legal provision for valuation with regard to export of goods. As per clause (c) of Section 15 (2) of CGST Act, 2017, in case of export of goods under CIF contracts, the value of supply is the transaction value which represents the value mentioned in the invoice, which include freight and insurance raised by the claimant to the customer. As per Section 2 (3) of CGST ACT, 2017, supply of goods on CIF basis where the freight and insurance are also arranged by the exporter supplier is considered as a composite supply of goods and services. Even illustration provided in the Act has considered the transportation and insurance as part of supply and provided that tax is required to be paid on total value of invoice considering supply of goods as principal supply. Further referring to FAQ 16 of



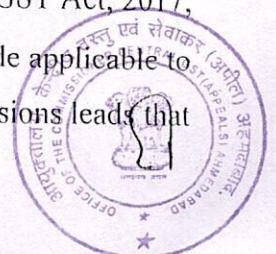
Commissioner of Customs, Export, Chennai IV, Public Notice No.8/2018 dated 23-2-2018, the respondent contended that they had rightly considered the transaction value for computing refund under Rule 89 of CGST Rules, 2017.

- iii. Recently an explanation has been inserted to Rule 89 (4) of CGST Rules vide Notification NO.14/2022-CT dated 5-7-2022 wherein it has been made amply clear that for the purpose of Rule 89 (4) the value of goods export out of India ie zero rated supply of goods should be considered as FOB value as per shipping bill or value declared in tax invoice whichever is less. As per newly inserted explanation the value of goods exported out of India should taken as i) FOB value declared in the shipping bill or bills of export form as the case may be, as per the shipping bill and bill of export (Forms) Regulation 2017 or ii) the value declared in tax invoice or bill of supply whichever is less. In view of this the value of goods exported out of India for computing the adjusted total turnover is to be considered as per newly inserted explanation ie FOB value declared in shipping bill or value declared in tax invoice whichever is less. By analysing the new inserted explanation, the intention of the law maker is getting clarified that the value of zero rated supply in numerator and denominator should be same as arrived at as per Rule 89 (4). Further as per CBIC Circular No.147/03/2021-GST dated 12-3-2021 for the purpose of Rule 89 (4), the value of export/zero rated supply of goods to be included while calculating 'adjusted total turnover' will be same as being determined as per amended definition of 'turnover of zero rated supply of goods in the said sub rule. Accordingly, the value of zero rated supply to be considered in numerator and denominator should be same and there cannot be different criteria for computing numerator and denominator. Further this is clearly evident from the aforesaid Circular that the value of export/zero rated supply of goods to be included while calculating 'adjusted total turnover' will be same as being determined as per amended definition of turnover of zero rated supply of goods in the said Rule. In view of above computation done in appeal considering FOB value in numerator and transaction value in denominator is completely incorrect and not proper.
- iv. The refund claim by them is equal to the refund amount arrived at even after considering FOB value in numerator and denominator as in consonance with Rule 89 (4). The refund amount computed considering the transaction value and considering FOB value is same which comes to Rs.7,36,318/-. Their export turnover is more than 99.99% and thus the change in numerator and denominator ie from CIF to FOB as prescribed in the formula provided under Rule 89 of CGST Rules would not have any impact on refund as the ratio would remain the same. Thus, it is amply clear that computation of refund claimed by them does not exceed the refund amount computed considering FOB value.
- v. The issue of computation of adjusted turnover has already been settled by the appellant authority in their own matter vide OIA NO.AHM-CGST-001-APP-ADC-156/2021-2022 dated 28-3-2022 wherein it has been held that value of zero rated supply at numerator and



turnover value of zero rated supply in total adjusted turnover at denominator will be same. That Law of precedent should be followed in their case.

- vi. The respondent relied upon decision of Hon'ble Supreme Court in the case of UOI Vs M/s.Radhubir Singh (AIR 1989 SC 1933) ; in the case of Pradip Chandra Parija Vs Pramod Chandra Patnaik (2002 (144) ELT 7 (SC) ; decision of Hon'ble Tribunal in the case of M/s.Pacific Organic Pvt Ltd CCE, Thane (2007 (216) ELT 306 (Tri) ; decision of Hon'ble High Court in the case of M/s.Rolux Processors (P) Ltd Vs Textile Committee (2010 (257) ELT 92 (Del) and decision of Hon'ble Tribunal in the case of M/s.Johnson and Johnson Vs CCE Mumbai I (2016 (335) ELT 163 (Tri.Mumbai).
- vii. In view of above submissions the respondent prayed to uphold the OIO passed by the adjudicating authority ; to compute refund amount on the basis of statutory formula prescribed under Rule 89 ; even in case refund is computed on the basis of FOB value, the value of export/zero rated supply of goods to be included while calculating 'adjusted total turnover' will be same as being determined as per newly inserted explanation to Rule 89 (4).
5. Personal hearing was held on dated 26-8-2022. No one appeared on behalf of the appellant. Shri Gopal Krishna Laddha, authorized representative appeared on behalf of the respondent on virtual mode. He stated that they have nothing more to add to their written submission till date.
6. I have carefully gone through the facts of the case, grounds of appeal, submissions made by the respondent and documents available on record. The facts and grounds in both the appeals are same. I find that the present appeals were filed to set aside the impugned orders on the ground that the adjudicating authority has sanctioned excess refund to the respondent and hence to order recovery of the same along with interest. The grounds made in appeal is that the respondent has taken invoice value as turnover of zero rated supply of goods for arriving admissible refund whereas the turnover of zero rated supply of goods should be FOB value as per shipping bill which is the lower value, in terms of para 47 of Circular No.125/44/2019-GST dated 18-11-2019 and accordingly the admissible refund comes to less than the sanctioned amount resulting in excess sanction of refund to the respondent. The respondent interalia contended that as per Section 15 of CGST Act, 2017 the price actually paid or payable is the transaction value of goods and they had correctly taken transaction value mentioned in invoice for computation of refund. .
- 7.. As per Section 15 of CGST Act, 2017 the value of taxable supply of goods is transaction value which is actually paid or payable and includes all related expenses, ie any amount charged by the supplier on supply of goods form part of transaction value. Under Section 7 of IGST Act, 2017 export of goods is considered as inter-state supply and as per Section 20 of IGST Act, 2017, the provisions of CGST Act, 2017 relating to time and value of supply is also made applicable to integrated tax under IGST Act, 2017. Concurrent reading of above statutory provisions leads that



in case of export of goods the value charged in the invoices and paid by the recipient of goods is the transaction value of export goods and hence this value need to be taken towards turnover of zero rated supply of goods in the formula prescribed under Rule 89 (4) of CGST Rules, 2017. However, I find that CBIC in para 47 of Circular No.18-11-2019 has clarified as under:

47. It has also been brought to the notice of the Board that in certain cases, where the refund of unutilized input tax credit on account of export of goods is claimed and the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs Act, refund claims are not being processed. The matter has been examined and it is clarified that the zero-rated supply of goods is effected under the provisions of the GST laws. An exporter, at the time of supply of goods declares that the goods are meant for export and the same is done under an invoice issued under rule 46 of the CGST Rules. The value recorded in the GST invoice should normally be the transaction value as determined under section 15 of the CGST Act read with the rules made thereunder. The same transaction value should normally be recorded in the corresponding shipping bill / bill of export. During the processing of the refund claim, the value of the goods declared in the GST invoice and the value in the corresponding shipping bill / bill of export should be examined and the lower of the two values should be taken into account while calculating the eligible amount of refund.

8. The aforesaid Circular clearly clarify that in case of claim made for refund of unutilized ITC on account of export of goods where there is difference in value declared in tax invoice ie between transaction value under Section 15 of CGST Act, 2017 and export value declared in corresponding shipping bill, the lower of the two value should be taken into account while calculating the eligible amount of refund. The Circular further clarifies that in normal cases the transaction value (invoice value) should also be recorded in shipping bills but only in case of any difference in value declared in shipping bill with invoice value, the lower value should be taken for calculating the eligible amount of refund. Thus, the Circular envisage a situation where value of goods as per invoice was less than value as per shipping bill and vice versa. In the subject case the respondent has taken invoice value towards turnover of zero rated supply of goods whereas appellant has taken the stand that FOB value as per shipping bill which was lower than the invoice value need to be taken towards turnover of zero rated supply of goods. As per grounds of appeal, invoice value (transaction value) exported during the claim period comes to Rs.2,26,34,060/- and Rs.2,48,68,590/- whereas the FOB value as per shipping bills comes to Rs.2,12,71,165/- and Rs.2,37,89,898/- for the month of March 21 and April 2021. Thus, the value as per shipping bill which is the FOB value was lower than the invoice value and hence applying the clarification issued vide Circular I find that FOB value as per shipping bill need to be taken into account for arriving turnover of zero rated supply of goods in the formula prescribed under Rule 89 (4) of CGST Rules, 2017.

9. The respondent in their written submission contended that as per clause (c) of Section 15 (2) of CGST Act, 2017, in case of CIF contracts freight and insurance are incidental expenses and



hence transaction value which represent invoice value include freight and insurance also. I am also of the view that as per Section 15 of CGST Act, 2017, transaction value include all expenses incidental to supply of goods charged by the supplier at the time or before delivery of goods or supply of services. However, no documents or evidences viz copy of invoices and shipping bills indicting that the value as per shipping bill was not lower than value as per invoice or that invoice value comprise freight and insurance was produced before me in the present proceedings.

10. I further find that under Rule 89 (4) of CGST Rules, 2017 the following explanation was inserted vide Notification No.14/2022-CT dated 5-7-2022 as under :

(c) in sub-rule (4), the following Explanation shall be inserted, namely: -

Explanation. – For the purposes of this sub-rule, the value of goods exported out of India shall be taken as – (i) the Free on Board (FOB) value declared in the Shipping Bill or Bill of Export form, as the case may be, as per the Shipping Bill and Bill of Export (Forms) Regulations, 2017; or (ii) the value declared in tax invoice or bill of supply, whichever is less.

11. As per above explanation, for the purpose of arriving admissible refund under Rule 89 (4), in the formula prescribed under Rule 89 (4), the turnover of zero rated supply of goods is to be taken as FOB value declared in the shipping bill or bill of export or the value declared in tax invoice or bill of supply whichever is less. Thus, the above explanation also seeks to take lower value of goods among FOB value and invoice value towards turnover of zero rated supply of goods. Therefore I find that in the present appeal the appellant has correctly taken FOB value as per shipping bill, which was lower than the invoice value, towards turnover of zero rated supply of goods. Accordingly, I find that the adjudicating authority has erred in taking invoice value towards the turnover of zero rated supply of goods.

12. The respondent referring to para 4 of CBIC Circular NO.147/03/2021-GST dated 12-3-2021 and definition of 'adjusted total turnover' further contended that value of zero rated supply to be considered in numerator and denominator in the formula prescribed under Rule 89 (4) of CGST Rules, should be the same and there cannot be different criteria for computing numerator and denominator ie for the value of turnover of zero rated supply of goods in the formula and hence by taking invoice value or FOB value towards turnover of zero rated supply of goods the admissible refund will remain same in their case. I find force in the appellant's contention. In this regard I refer to para 4 of above Circular providing clarification as under :

4. The manner of calculation of Adjusted Total Turnover under sub-rule (4) of Rule 89 of CGST Rules, 2017.

4.1 Doubts have been raised as to whether the restriction on turnover of zero-rated supply of goods to 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier as declared by the supplier, imposed by amendment in definition of the "Turnover of zero-rated



supply of goods" vide Notification No. 16/2020-Central Tax dated 23.03.2020, would also apply for computation of "Adjusted Total Turnover" in the formula given under Rule 89 (4) of CGST Rules, 2017 for calculation of admissible refund amount.

4.2 Sub-rule (4) of Rule 89 prescribes the formula for computing the refund of unutilised ITC payable on account of zero-rated supplies made without payment of tax. The formula prescribed under Rule 89 (4) is reproduced below, as under:

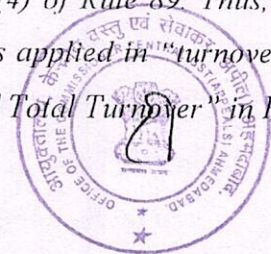
"Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover"

4.3 Adjusted Total Turnover has been defined in clause (E) of sub-rule (4) of Rule 89 as under:

"Adjusted Total Turnover" means the sum total of the value of- (a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and (b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding- (i) the value of exempt supplies other than zero-rated supplies; and (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period.'

4.4 "Turnover in state or turnover in Union territory" as referred to in the definition of "Adjusted Total Turnover" in Rule 89 (4) has been defined under sub-section (112) of Section 2 of CGST Act 2017, as: "Turnover in State or turnover in Union territory" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess"

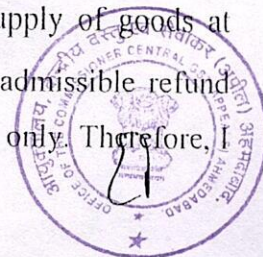
4.5 From the examination of the above provisions, it is noticed that "Adjusted Total Turnover" includes "Turnover in a State or Union Territory", as defined in Section 2(112) of CGST Act. As per Section 2(112), "Turnover in a State or Union Territory" includes turnover/ value of export/ zero-rated supplies of goods. The definition of "Turnover of zero-rated supply of goods" has been amended vide Notification No.16/2020-Central Tax dated 23.03.2020, as detailed above. In view of the above, it can be stated that the same value of zero-rated/ export supply of goods, as calculated as per amended definition of "Turnover of zero-rated supply of goods", need to be taken into consideration while calculating "turnover in a state or a union territory", and accordingly, in "adjusted total turnover" for the purpose of sub-rule (4) of Rule 89. Thus, the restriction of 150% of the value of like goods domestically supplied, as applied in "turnover of zero-rated supply of goods", would also apply to the value of "Adjusted Total Turnover" in Rule 89 (4) of the CGST Rules, 2017.



4.6 Accordingly, it is clarified that for the purpose of Rule 89(4), the value of export/ zero rated supply of goods to be included while calculating "adjusted total turnover" will be same as being determined as per the amended definition of "Turnover of zero-rated supply of goods" in the said sub-rule.

9. I find that as per definition of adjusted total turnover, defined in clause (E) of sub-rule (4) of Rule 89, the adjusted total turnover includes value of all outward supplies of goods and services made during the relevant period including zero rated (export) supply of goods but exclude value of inward supplies which are liable to reverse charge. Thus, in the formula prescribed under Rule 89 (4) of CGST Rules the value of zero rated turnover of goods comes at numerator as well as in total adjusted turnover at denominator. In identical cases of refund the above Circular envisage to adopt the same value of export/zero rated supply of goods in turnover of zero rated supply of goods as well as in adjusted total turnover in the formula. In the subject case, the respondent has filed refund claim taking into account invoice value towards turnover of zero rated supply of goods at numerator and also in adjusted turnover at denominator. However, in the ground of appeal the FOB value was taken towards turnover of zero rated supply of goods and the value taken towards adjusted total turnover value by the respondent was not disputed, which indicate that FOB value was taken towards turnover of zero rated supply of goods in numerator and invoice value of goods was taken towards value of zero rated supply of goods in adjusted total turnover at denominator. Apparently, this result in adopting two different values for same zero rated supply of goods, which I find is factually wrong method and not in consonance with Circular above. Therefore, I am also of the considered view that the same value of zero rated supply of goods taken as turnover of zero rated supply of goods need to be taken in adjusted total turnover also towards ~~value of zero rated~~ (export) supply of goods. I have also taken same view in Order in Appeal No. AHM-CGST-001-APP-ADC-156/2021-22 dated 28-3-2022 in another appeal filed by the respondent on the same issue.

10. Accordingly, I find that in respect of claim made for the month of April 2021, the turnover of zero rated supply of goods as per invoice value and adjusted total turnover was same at Rs.2,48,69,392/- which imply that there is no other taxable supply of goods which will form part of adjusted total turnover. Therefore, even by taking FOB value towards turnover of zero rated supply of goods the same value will figure in adjusted total turnover also and in such instances the admissible refund will remain same. For the month of March 2021, the respondent has filed the claim taking into account invoice value of turnover of zero rated supply of goods at Rs.2,26,34,061/-, adjusted total turnover at Rs.2,32,51,064/-, which include supply of goods other than zero rated amounting to Rs.6,17,004/- and Net ITC at Rs.14,25,887/-. However, as against admissible refund as per formula for Rs.13,88,048/-, the claim was made only for Rs.13,14,769/- which is the balance in electronic credit ledger at the end of tax period. Accordingly, even by taking into account FOB value of goods towards turnover of zero rated supply of goods at Rs.2,12,71,165/-, the adjusted total turnover comes to Rs.2,18,88,169/- and admissible refund comes to Rs.13,85,693/- whereas claim was made for refund of Rs.13,14,769/- only. Therefore, I




do not find any excess/erroneous sanction of refund to respondent in both the claims so as to set aside the impugned order or to order recovery of the same with interest. Therefore, I hold that the present appeals succeed on the ground that FOB value as per shipping bill which is lower than the invoice value needs to be taken towards turnover of zero rated supply of goods for arriving admissible refund but does not succeed and sustain on the ground of excess sanction refund.

11. In view of above, I do not find that any merit or legality in the present appeals filed by the appellant to set aside the impugned orders and order recovery of erroneous/excess refund sanctioned to the respondent on the grounds mentioned in appeals. Accordingly, I upheld the impugned orders and reject the appeals filed by the appellant.

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

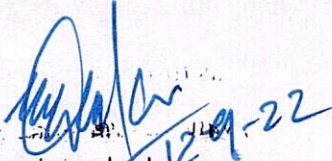
12. The appeals filed by the appellant stands disposed of in above terms.


(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested


Superintendent
Central Tax (Appeals),
Ahmedabad
By RPAD



To,

The Assistant Commissioner,
CGST, Division VIII,
Ahmedabad South
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) M/s.U Square Life Science Private Limited A 1101, A 1102, A 1103, Solitaire Corporate Park, Beside Divya Bhaskar Press, SG Highway, Sarkhej, Ahmedabad 380 051
- 5) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 6) Guard File
- 7) PA file

