



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- 20221164SW0000111561

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTD/231/2021 -APPEAL / 4213 - 68

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-146/2022-23**

दिनांक Date : **03-11-2022** जारी करने की तारीख Date of Issue : **04-11-2022**

श्री मिहिर रायका_अपर आयुक्त (अपील) द्वारा पारित

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

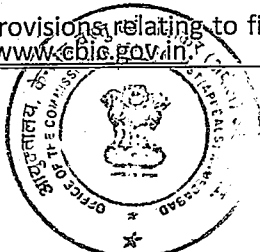
ग Arising out of Order-in-Original No. **ZX2405210428895 DT. 24.05.2021**

issued by Assistant Commissioner, CGST , Division-VIII, Ahmedabad South

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

**Assistant Commissioner, Division-VIII, Ahmedabad South, 3rd Floor,
APM Mall, Anand Nagar Road, Satellite, Ahmedabad-380015**

(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**Brief Facts of the Case :**

The following appeal has been filed by the Assistant Commissioner, CGST, Division - VIII, Ahmedabad South (hereinafter referred as '*appellant*' / '*department*') in terms of Review Order issued under Section 107(2) of the CGST Act, 2017 (hereinafter referred as '*the Act*') by the Reviewing Authority against RFD-06 Order (hereinafter referred as '*impugned order*') passed by the Assistant Commissioner, CGST, Division - VIII, Ahmedabad South (hereinafter referred as '*adjudicating authority*') in the case of **M/s. Navdeep Trradex** (Apurva Nareshkumar Soni), 1104-B, 11th, Synergy Tower, Prahladnagar Corporate Road, Prahladnagar, Ahmedabad - 380015 (hereinafter referred as '**Respondent**').

Appeal No. & Date	Review Order No. & Date	RFD-06 Order No. & Date
GAPPL/ADC/GSTD/231/2021- APPEAL Dated 23.11.2021	28/2021-22 Dated 12.11.2021	ZX2405210428895 Dated 24.05.2021

2(i). Brief facts of the case are that the '*Respondent*' holding GSTIN No. 24CDEPS0393F1ZL had filed refund claim of Rs.13,50,013/- of accumulated ITC due to export without payment of duty vide ARN No. AA240521035006V dated 14.05.2021 under Section 54 of the CGST Act, 2017. After verification of said refund claim the *adjudicating authority* found the claim in order and accordingly sanctioned the same vide '*impugned order*'.

2(ii). During review of said refund claim, it was observed that the claimant has filed refund claim on account of ITC accumulated due to export without payment of tax for the period February to March 2021 and said claim is sanctioned by the adjudicating authority. However, on going through the refund claim, it is noticed that higher amount of refund has been sanctioned to the *respondent* than what is actually admissible to them in accordance with Rule 89 (4) of CGST Rules, 2017 read with Section 54 (3) of CGST Act, 2017. It was observed that the claimant has shown adjusted total turnover as Rs.2,06,17,949/- for the said period whereas, as per GSTR 3B/GSTR 1 returns of said period it is Rs.3,67,38,906/-. Thus taking the actual value of adjusted total turnover and applying the formula for refund of export without payment of tax the admissible refund comes to



Rs.8,11,021/- instead of Rs.13,50,013/- sanctioned by adjudicating authority to the *respondent*. Thus, there is excess sanction of refund of Rs.5,38,992/- to the *respondent* which is required to be recovered along with interest. The details are as under :

(Amount in Rs.)

Adjusted Total Turnover as per RFD-01 (1)	Adjusted Total Turnover as per GSTR-3B (2)	Net ITC (3)	Zero rated Turnover (4)	Refund Amount sanctioned (3*4/1)	Refund Amount admissible (3*4/2)	Excess Refund amount sanctioned
20617949	36738906	1510445	19726660	1350013	811021	538992

2(iii). In view of above, the appellant has filed the present appeal on the following grounds:

- i. The adjudicating authority has erred in passing the refund order, as higher amount of refund has been sanctioned to the claimant than what is actually admissible to them in accordance with the Rule 89(4) of the CGST Rules, 2017 read with Section 54(3) of the CGST Act, 2017.
- ii. It is noticed that the claimant has shown the adjusted total turnover as Rs.2,06,17,949/- for said period, whereas on perusal of the GSTR-3B and GSTR 1 returns for the February to March 2021, it is noticed that the actual adjusted total turnover is Rs.3,67,38,906/-. Thus it appears that the claimant has shown the adjusted total turnover as Rs.2,06,17,949/- (zero rated turnover Rs.1,97,26,660/- + Local Turnover Rs.8,91,290/-). However, as per GSTR-3B return for the period February to March 2021, the claimant has exported goods/services valued at Rs.3,58,47,616/- and supplied goods/services locally on payment of tax valued at Rs.8,91,290/-. Thus, the adjusted total turnover comes to Rs.3,67,38,906/-.
- iii. Turnover in state or turnover in Union Territory as referred to in the definition of "Adjusted Total Turnover" as per Rule 89(4) of the CGST Rules, 2017 has been defined in Section 2(112) of the 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". Accordingly, taxable value should be taken as per Section 15 of the CGST Act, 2017. The claimant has declared the export value in the GSTR 3B return for the



period February to March'21 as Rs.3,58,47,616/- which should be taken while calculating the adjusted total turnover of the claimant. Thus the Adjusted total turnover comes to Rs.3,67,38,906/- (Rs.3,58,47,616/- + Rs.8,91,290/-).

- iv. Thus, it is noticed that the adjudicating authority has erred in passing the refund order, as higher amount of refund has been sanctioned to the claimant by taking lower value of adjusted total turnover; thereby excess refund amounting to Rs.5,38,992/- has been given; which is required to be recovered alongwith interest.
- v. In view of above grounds the appellant has requested to set aside the impugned order wherein the adjudicating authority has erroneously sanctioned Rs.13,50,013/- instead of Rs.8,11,021/-, under Section 54 (3) of CGST Act, 2017 and to pass order directing the original authority to demand and recover the amount erroneously refunded of Rs.5,38,992/- with interest; and to pass any order as deem fit in the interest of justice.

Personal Hearing :

3. Personal Hearing in the matter was through virtual mode held on 11.08.2022. Shri Priyank D. Shah, CA was appeared on behalf of the 'Respondent' and stated that they want to submit additional information/details for which 7 working days period was granted.

Accordingly, the Respondent through e-mail nmmarfatia108@gmail.com dated 17.08.2022 forwarded the copies of (1) DRC 03 dated 17.11.2021 and (2) GST Challan Receipt dated 17.11.2021. The Respondent has further informed that "the said refund was paid by the assessee vide challan dated 17.11.2021 along with interest of Rs.44,921/-. Therefore, the appeal has become in fructuous as the payment was already made long back". Accordingly, the Respondent has requested to dispose of the appeal.

Discussion and Findings :

4. I have carefully gone through the facts of the case, grounds of appeal, submission made by the respondent and documents available on record. I find that the present appeal was filed to set aside the impugned order on the ground that the adjudicating authority has sanctioned excess refund to the respondent and to order recovery of the same along with interest. In the present case the respondent has claimed refund of ITC accumulated on account of export of goods made without payment of tax which is governed under Section 54 (3) of CGST Act, 2017 read with Rule 89 (4) of CGST Rules, 2017. The dispute



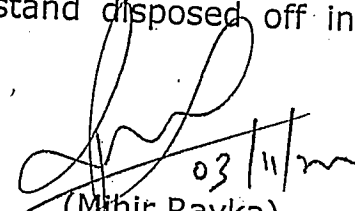
only with regard to 'adjusted total turnover' taken for determining admissible refund in the formula prescribed under Rule 89 (4) of CGST Rules, 2017. The appellant has taken the stand that the 'adjusted total turnover' taken by Respondent is not as per GSTR3B and GSTR1 returns. The Respondent has claimed the Refund by considering Rs.2,06,17,949/- as Adjusted Total Turnover in the formula for determining the admissible amount of refund whereas, as per GSTR3B is Rs.3,67,38,906/-. Accordingly, by considering the Adjusted total Turnover as Rs.3,67,38,906/- the admissible amount of refund comes Rs.8,11,021/- instead of Rs.13,50,013/- as sanctioned in the present matter vide impugned order. Accordingly the admissible refund comes to less than the sanctioned amount, resulting in excess sanction of refund of Rs.5,38,992/- to the respondent.

5. Further, I find that the authorized representative of the Respondent has informed that they have already paid back the refund amount to the Department with interest. The Respondent has produced the copy of challan according to which the Respondent has deposited Rs.5,38,992/- towards Tax and Rs.44,920/- towards Interest on 17.11.2021. Further, I find that the Respondent has also produced the copy of DRC-03 ARN - AD241121002888P dated 17.11.2021 according to which the Respondent has made payment of Rs.5,83,913/- (538992 + 44921) by debiting cash ledger under Debit Entry - DC241121172194 dated 17.11.2021. Therefore, I find that the Respondent has accepted the view of the department.

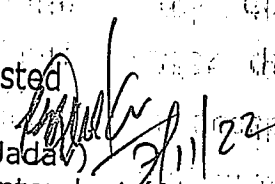
6. In view of above discussions, I find that the *impugned order* is not legal and proper and therefore, require to be set aside. Accordingly, the appeal filed by the 'Department' is allowed and set aside the *impugned order*.

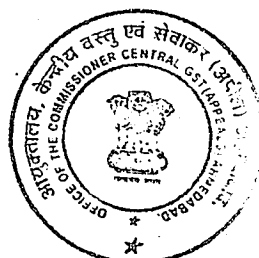
7. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

The Appeal filed by, 'Department' stand disposed off in above terms.


03/11/22
(Mihir Rayka)

Additional Commissioner (Appeals)
Date: 03.11.2022

Attested

(Dilip Jadav)
Superintendent (Appeals)
Central Tax, Ahmedabad



By R.P.A.D.

To,
The Assistant / Deputy Commissioner,
CGST, Division – VIII,
Ahmedabad South.

Appellant

M/s. Navdeep Trradex (Apurva Nareshkumar Soni),
1104-B, 11th, Synergy Tower,
Prahladnagar Corporate Road, Prahladnagar,
Ahmedabad - 380015

Respondent

Copy to:

1. The Principal Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner, CGST & C. Ex., Appeals, Ahmedabad.
3. The Commissioner, CGST & C. Ex., Ahmedabad-South.
4. The Deputy/Assistant Commissioner, CGST, Division-VIII, Ahmedabad South.
5. The Additional Commissioner, Central Tax (System), Ahmedabad South.
- ✓ 6. Guard File.
7. P.A. File

