



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
 07926305065- टेलीफैक्स 07926305136



DIN-20220564SW000022002C

रजिस्टर्ड डाक ए.डी. द्वारा

- क फाइल संख्या : File No : GAPPL/ADC/GSTP/1311 & 1145/2021 -APPEAL /1254-1259
- ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-23/2022-23**
 दिनांक Date : **19-05-2022** जारी करने की तारीख Date of Issue : **19-05-2022**
- श्री मिहिर रायका अपर आयुक्त (अपील) द्वारा पारित
- Passed by Shri. Mihir Rayka, Additional Commissioner (Appeals)
- ग Arising out of Order-in-Original No. **ZP2404210294205 DT. 26.04.2021 & ZR24042102961893 DT. 26.04.2021** issued by Deputy Commissioner, CGST, Division VI (Vastrapur), Ahmedabad South
- घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
M/s. Synergy Medsol Private Limited, B Wing, 8th Floor,
Gujarat Bhavan, Ellisbridge, 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

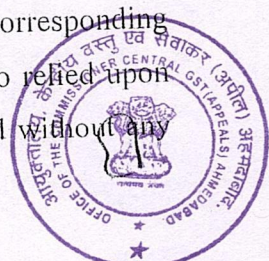
ORDER IN APPEAL

M/s.Synergy Medsol Private Limited, B Wing, 8th Floor, Gujarat Bhavan, Ellisbridge, Ahmedabad 380 015 (hereinafter referred to as the appellant) has filed the present appeals on dated 30-6-2021 and 15-7-2021 against Order No.ZP2404210294205 dated 26-4-2021 and Order No.ZR24042102961893 dated 26-4-2021 (hereinafter referred to as the impugned orders) passed by the Deputy Commissioner, CGST, Division VI (Vastrapur), Ahmedabad South (hereinafter referred to as the adjudicating authority).

2. Briefly stated the fact of the case is that the appellant registered under GSTIN 24AAGCS2301H2ZT has filed refund claim for refund of Rs.1,31,100/- under ARN No.AA2403210587379 dated 17-3-2021 and for Rs.86,372/- under ARN No.AA240321079142P dated 22-3-2021 in respect of ITC on export of goods and services without payment of tax for the period January 2020 to March 2020 and April 2020 to June 2020. The appellant was issued show cause notice reference number ZV2403210384293 dated 26-3-2021 and reference number ZR2403210384371 dated 26-3-2021 for rejection of the claim on the ground of forged ITC claim stating that the appellant has availed ITC on invoices of M/s.Blazenet Ltd which appears in ongoing investigation list of suspicious transaction of preventive section and refund extent to that amount is not admissible. The adjudicating authority vide impugned order sanctioned refund of Rs.1,12,005/- and rejected refund of Rs.19,125/- in respect of claim for the period January to March 2020 and sanctioned refund of Rs.74,896/- and rejected refund of Rs.11,475/- in respect of claim for the period April to June 2020 on the grounds mentioned in the show cause notice and also due to non-uploading of supporting documents.

3. Being aggrieved with the order rejecting refund the appellant filed the present appeal on the following grounds:

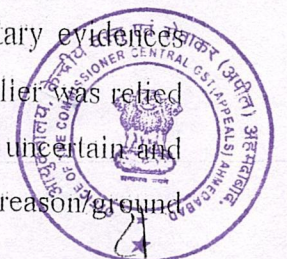
The refund is a statutory right of the appellant and cannot be withheld when there is no allegation of incorrect credit taken by them. Any allegation of suspicious transaction for M/s.Blazenet Limited cannot be an excuse to deny the refund to them when the appellants have correctly paid whole GST and are eligible for whole credit/refund for the same. In respect of claim for the period Jan to March 2020, the adjudicating authority has stated that the appellants have not uploaded the supporting documents of reply but the various documents were uploaded as well as submitted physically at the office of the adjudicating authority on 8-3-2021. The refund claim of Rs.19125/- and Rs.11,475/- was rejected on the ground that an investigation related to suspicious transactions was going on M/s.Blazenet Limited cannot be a valid reason for rejection of refund, because the same is reflecting in GSTR2A of the relevant quarter relying on which the refund of such amount is claimed and the same is also reconciled with GSTR3B of the relevant period. As per Circular No.59/33/2018-GST dated 4-9-2018, if the credit appearing in GSTR2A it is sufficient to process the claim of refund and submission of hard copy of invoice is not required and the proper officer shall rely upon Form GSTR2A as evidence of the accountability of the supply by the corresponding supplier in relation to which the ITC has been availed by them. The appellant also relied upon Circular No.135/05/2020-GST dated 30-3-2020 whereby refund cannot be rejected without any



basis. As per above Circular, they are allowed to avail the credit as all the invoices of M/s.Blazenet Limited as they are reflecting in the GSTR2A. Accordingly, the appellant have duly made payment of all the invoices of M/s.Blazenet Limited. They should be granted refund of Rs.19,125/-and Rs.11,475/- as credit have been rightly availed and they are eligible for refund of the GST paid. In view of above submission, the appellant requested to set aside the part of the impugned orders rejecting refund and grant refund to them along with interest.

4. Personal hearing was held for appeal filed on 30-6-2021 on dated 12-5-2022. Ms. Richa Goyal, authorized representative appeared on behalf of the appellant on virtual mode. She stated that she has nothing more to add to their written submission till date. Ms. Richa Goyal, vide letter dated 17-5-2022 stated that issue in both the above appeals are same and requested to take the submission made in personal hearing held on 12-5-2022 on record and issue order in respect of appeal filed against Order No.ZR2404210296183 as the facts are same in both the appeals. Accordingly, I take up both appeals for discussion on merit.

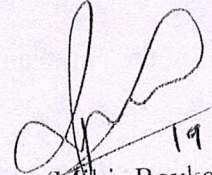
5. I have carefully gone through the facts of the case, grounds of appeals, submissions made by the appellant and documents available on record. I find that in this case refund was partially rejected on the sole ground that transaction made by the supplier of inputs viz M/s.Blazenet Limited was under ongoing investigation of list of suspicious transaction of preventive section. I find that the appellant has claimed refund of ITC on export of goods and services without payment of tax. As per refund application during the claim period the entire supply was made for export without payment of tax and claim was made for ITC availed during the claim period. It transpires from the impugned order that refund to the extent involved on ITC availed on the strength of invoices issued by M/s.Blazenet Ltd was rejected. However, such rejection was ordered only on the basis of suspicious transaction made by the supplier and not on the basis of any omission or lapse or contravention on the part of the appellant. I further find that Section 16 (2) of CGST Act, 2017 contains statutory provisions for eligibility and conditions of taking ITC. However, neither ineligibility of ITC under Section 16 (2) of CGST Act, 2017 nor non-fulfilment of any of the conditions on the part of the appellant is pointed out in this case. Similarly, it is also not disputed that invoices issued by M/s.Blazenet are not reflected in GSTR2A of the appellant or refund was inadmissible under CGST Act, 2017 or Rules made thereunder. Moreover, as per Rule 86A of CGST Rules, 2017 inserted vide Notification No. 75/2019-CT dated 26-12-2019, the Commissioner or any officer, not below the rank of Assistant Commissioner, authorized by him are empowered to disallow ITC fraudulently availed or is ineligible for any claim of refund of any unutilized amount for reasons recorded in writing. However, in the subject case no order issued by the appropriate authority disallowing ITC availed on the strength of invoices issued by M/s.Blazenet was relied for rejection of ITC. Even in case of the supplier also the transaction made by them 'appeared' in the list of suspicious transactions only and no documentary evidences establishing or confirming any fraudulent and illegal transaction made by the supplier was relied for rejection of claim. In short, I find that rejection of refund was ordered on an uncertain and unconfirmed ground based on presumption and assumption. Therefore, I find that reason/ground



on which refund was rejected is not a justifiable and legally sustainable reason for rejection of refund to the appellant. Regarding non-uploading of documents for the claim made for the period January to March 2020, I find that the appellant has filed reply to show cause notice vide letter dated 6-3-2021, wherein they had enclosed copy of GSTR2A and invoices issued by M/s.Blazenet Ltd. However, Form GST RFD 09 shows that no supporting documents was uploaded. Nevertheless, I find that since the claim was rejected solely on the ground of suspicious transaction by the supplier, I find the ground of non-uploading of documents is also not a justifiable and legally sustainable reason for rejection of refund. Therefore, I find strong force in the submissions made by the appellant in their grounds of appeals to set aside the impugned orders.

6. In view of above I hold that the impugned orders passed by the adjudicating authority rejecting refund on the ground of suspicion in transaction of the supplier are not legal and proper and deserve to be set aside. Therefore, I allow these appeals with consequential benefit due to the appellant in accordance with CGST Act and Rules made thereunder. Accordingly, I set aside the impugned orders and allow these appeals.

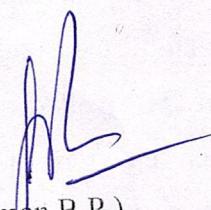
7. अपील कर्था द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।
The appeals filed by the appellant stands disposed of in above terms.


(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested


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



By RPAD

To,
M/s.Synergy Medsol Private Limited,
B Wing, 8th Floor, Gujarat Bhavan,
Ellisbridge, Ahmedabad 380 015
New address:

III floor, A 303, Baleshwar Square,
Opp Iscon Temple, SG Highway, Jodhpur,
Ahmedabad 380 015
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 Commissioner, CGST, Division VI (Vastrapur) Ahmedabad South
- 5) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 6) Guard File
- 7) PA file

