



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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रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/1095 & 1096/2021 -APPEAL / 317 - 322

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-04/2022-23**

दिनांक Date : **11-04-2022** जारी करने की तारीख Date of Issue : **12-04-2022**

श्री मिहिर रायका_अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. **ZV2403210289660 DT. 19.03.2021** issued by Assistant Commissioner, Division I (Rakhial) Ahmedabad South

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

M/s. Anant Agarbatti Works, 9-10-11, Chanumda Estate, Near Keval Kanta,

Nagerwel Hanuman Road, Rakhial, Ahmedabad-380023

(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.Anant Agarbatti Works, 9-10-11, Chanumda Estate, Near Keval Kanta, Nagerwel Hanuman Road, Rakhial, Ahmedabad 380 023 (hereinafter referred to as 'the appellant') has filed two appeals on dated 18-6-2021 against Order No.ZV2403210289660 dated 19-3-2021 and Order No.ZX2403210289526 dated 19-3-2021 (hereinafter referred to as 'the impugned orders') passed by the Assistant Commissioner, CGST, Division I Rakhial, Ahmedabad South (hereinafter referred to as 'the adjudicating authority') rejecting refund claim filed by them.

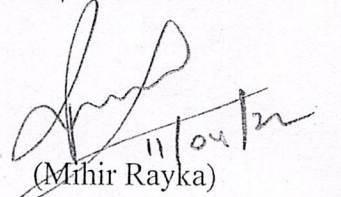
2. Briefly stated the fact of the case is that the appellant has filed refund claim for refund of ITC accumulated on account inverted tax structure under Section 54 (3) of CGST Act, 2017. The appellant was issued Show cause notice No.ZW2402210183403 dated 15-2-2021 and No.ZW2402210183492 dated 15-2-2021 proposing rejection of the case on the ground that there is mis match of illegible ITC in Annexure B, Statement 1A and GSTR3B. The adjudicating authority vide impugned order held that refund is inadmissible on the ground that the claimant replied to the show cause notice but supporting documents not found uploaded.
3. Being aggrieved the appellant filed the present appeal on the ground that the impugned order is bad in Law and required to set aside; principle of natural justice is violated under Rule 92 (3) read with proviso ; when all necessary documents with covering letter explaining method calculation but mentioning reasons as documents not found uploaded when system is showing documents attached.
4. Personal hearing was held on dated 6-4-2022. Shri Priyam 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.
5. I have carefully gone through the facts of the case, ground of appeal, submissions made by the appellant and documents available on record. In both appeals, the refund claim filed by the appellant was rejected on the ground that the appellant has not uploaded supporting documents in reply to show cause notice. I have verified reply filed to show cause notice under reference No.ZW2402210183403 dated 2-3-2021 and No.ZW2402210183492 dated 2-3-2021 and find that the supporting documents viz. Covering letter, Annexure B, GSTR2A, Statement 1A, CA Certificate and GSTR3B are attached with the reply. In this regard confirmation was also sought from the jurisdictional Division Office and accordingly Superintendent, CGST Division I, Ahmedabad South vide letter File No.IV/16-04/Ref-Reb/Div I/Misc 19 dated 14-3-2022 confirmed that the appellant has uploaded supporting document along with reply filed on 2-3-2021 against the above referred SCNs.
6. In view of above I find that the appellant has timely and properly filed reply to the show cause notices issued to them and also uploaded the supporting documents. In spite of same, the adjudicating authority without looking into the documents attached with reply to show cause notice rejected the claim. As per Rule 92 (3) of CGST Rules, it was a mandatory requirement to

consider the reply filed to the show cause notice and give opportunity of personal hearing before rejecting refund claim. In the subject case it is very clear that in spite of uploading supporting documents the adjudicating authority rejected the claim on the ground of non-uploading the supporting documents which indicate that refund claim was rejected without considering reply filed to the show cause notice. Apparently, the procedures prescribed under Rule 92 (3) of CGST Rules, 2017 were not followed by the adjudicating authority before rejecting the refund claim. Therefore, I find that the impugned orders passed by the adjudicating authority without following the procedure prescribed under Rule 92 (3) are not legally sustainable and tenable.

7. In view of above I hold that the impugned orders passed by the adjudicating authority are not legal and proper and not accordance with the provisions governing rejection of refund application. Therefore, I allow the appeals with consequential relief under CGST Act and Rules framed there under. Accordingly I set aside the impugned orders and allow the appeals filed by the appellant.

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

8. 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



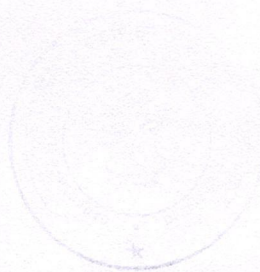
By RPAD

To,
M/s. Anant Agarbatti Works,
9-10-11, Chanunda Estate,
Near Keval Kanta,
Nagerwel Hanuman Road,
Rakhial, Ahmedabad 380 023

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 Assistant Commissioner, CGST, Division I (Rakhial) Ahmedabad South
- 5) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 6) Guard File
- 7) PA file





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