



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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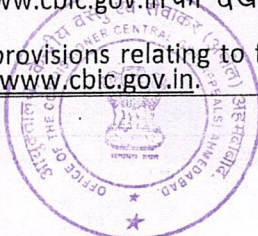
DIN- 20220664SW0000333FF5

रजिस्टर्ड डाक ए.डी. द्वारा

- क फाइल संख्या : File No : GAPPL/ADC/GSTP/1837/2021 -APPEAL /1818-1823
- ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-51/2022-23**
 दिनांक Date : **14-06-2022** जारी करने की तारीख Date of Issue : **15-06-2022**
- श्री मिहिर रायका_अपर आयुक्त (अपील) द्वारा पारित
- Passed by Shri. Mihir Rayka, Additional Commissioner (Appeals)
- ग Arising out of Order-in-Original No. **ZR2405210315662 DT. 19.05.2021**
 issued by Assistant Commissioner, Division I (Rakhial), Ahmedabad South

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
Shri Iqbal Alludinji Rangrej of M/s. Rangrej Industries, Survey No. 12, Balumama Estate, Somnath Mahadev Road, Suez Farm, Behrampur, 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) 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

Shri Iqbal Alludinji Rangrej of M/s.Rangrej Industries, Survey No.12, Balumama Estate, Somnath Mahadev Road, Suez Farm, Behrampura, Ahmedabad 380 022 (hereinafter referred to as the appellant) has filed the present appeal on dated 24-8-2021 against Order NO.ZR2405210315662 dated 19-5-2021 (hereinafter referred to as the impugned order) passed by the Assistant Commissioner, CGST, Division I (Rakhial), Ahmedabad South (hereinafter referred to as the adjudicating authority).

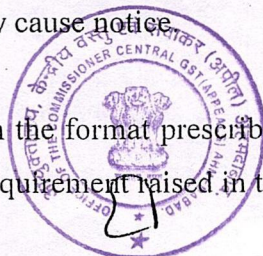
2. Briefly stated the fact of the case is that the appellant registered under GSTIN 24ADFP2260M1ZE has filed refund claim for Rs.4,87,446/- for refund on account of ITC accumulated due to inverted tax structure. The appellant was issued show cause notice No.ZU2404210357305 dated 30-4-2021 for rejection of refund on the ground that Annexure B is not as per Circular NO.135/05/2020-GST dated 31-3-2020. The adjudicating authority vide impugned order held that refund is inadmissible to the appellant on the ground that the claimant's reply is not satisfactory, and they did not upload the revised Annexure B and accordingly the claim is rejected for non compliance.

3. Being aggrieved the appellant filed the present appeal on the ground that they had claimed refund which is eligible and provided all the required details except HSN code at the time of submissions of refund application and they should be granted refund which is their genuine right and should not be allowed to suffer just because of small procedural lapse on their part.

4. Personal hearing was held on dated 2-6-2022. Shri Ujal S Mehta, authorized representative appeared on behalf of the appellant on virtual mode. He stated that he does not want to add anything to their written submission till date.

5. I have carefully gone through the facts of the case, grounds of appeal, submission made by the appellant and documents available on record. I find that in this case refund was rejected due to unsatisfactory reply to show cause notice and non-submission of revised Annexure B. I have gone through the show cause notice and find that the only reason for rejection made in the show cause notice is non submission of Annexure B as per Circular No.135/05/2020-GST dated 31-3-2020. The appellant in their reply filed in Form GST RFD 09 No.ZU2404210357305 dated 15-5-2020 submitted that *to maintain HSN/SAC was not mandatory for the FY 2019-2020, the assessee has not maintained the records of HSN in his books of accounts. The Annexure B is revised. Earlier for FY 2019-2020 HSN provision was not there. Rest all the details have been provided.* It is very apparent that reply is out of context and not in any related to the reason given in the show cause notice. The appellant though stated that they had revised Annexure B, the revised Annexure B is not attached with their reply. Therefore, I do not find any infirmity in the finding of the adjudicating authority. However, I also find that as per Rule 90 of CGST Rules, for discrepancy of such nature, the proper course of action is by way of issue of deficiency memo for necessary rectification and not by way of issue of show cause notice.

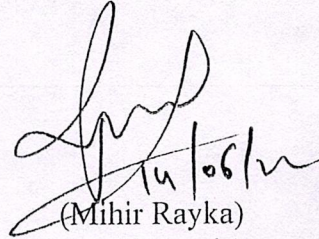
6. During appeal proceedings the appellant has submitted Annexure B in the format prescribed under Circular No.135/05/2020-GST dated 31-3-2020 which I find fulfil the requirement raised in the



show cause notice. I further find that as against ITC of Rs.9,71,123/- taken in the refund application, Annexure B shows eligible ITC as Rs.9,63,653/- which also include ITC availed on input services. However, I find that as per provisions of Rule 92 of CGST Rules, 2017, the sanctioning authority is empowered to sanction the admissible refund and reject the refund found inadmissible recording reasons in writing. I further find that vide Circular No.135/05/2020 – GST dated the 31st March, 2020, it was also clarified that the refund of accumulated ITC shall be restricted to the ITC as per those invoices, the details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in the FORM GSTR-2A of the applicant. Further as per Rule 89 (5) of CGST Rules, ITC availed on input services and capital goods are kept out of purview of 'Net ITC' in the formula prescribed for determining the admissible refund. Accordingly, so far as refund of ITC accumulated due to inverted tax structure cases are concerned, specific statutory provisions and clarification is in force. Therefore, I do not find any justification in denying substantive benefit due to the appellant due to non-submission of Annexure B in revised format, if refund is otherwise admissible to the appellant. Hence, in the interest justice and fairness I allow the present appeal with consequential benefit to the appellant. I further order any claim of refund made in consequent to this order may be examined and processed in accordance with CGST Act and Rules made thereunder and also on the basis of Circulars issued by the Board. Accordingly, I set aside the impugned order and allow the appeal filed by the appellant.

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

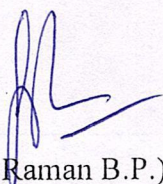
7. The appeal filed by the appellant stands disposed of in above terms.


(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested


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

By RPAD
To,
Shri Iqbal Alludinji Rangrej
of M/s.Rangrej Industries,
Survey No.12, Balumama Estate,
Somnath Mahadev Road,
Suez Farm, Behrampur,
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 Deputy Commissioner, CGST, Division I (Rakhial) Ahmedabad South
- 5) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 6) Guard File
- 7) PA file

