



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

07926305065-

टेलीफैक्स 07926305136



DIN- 20220864SW0000111COE

रजिस्टर्ड डाक ए.डी. द्वारा

3240 - 45

क फाइल संख्या : File No : GAPPL/ADC/GSTD/192/2021; 51/2022; 52/2022; 62/2022; 63/2022 & 61/2022 -APPEAL

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-001-APP-ADC-94/2022-23
दिनांक Date : 24-08-2022 जारी करने की तारीख Date of Issue : 26-08-2022

श्री मिहिर रायका_अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. ZW2404210334538 DT. 28.04.2021, ZT2406210243774 DT. 21.06.2021, ZO2406210243907 DT. 21.06.2021, ZZ2407210235986 DT. 19.07.2021, ZO2408210191087 DT. 13.08.2021 & ZS2408210381932 DT. 28.08.2021, issued by Assistant Commissioner, Division VIII, Vejalpur, Ahmedabad South

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

The 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



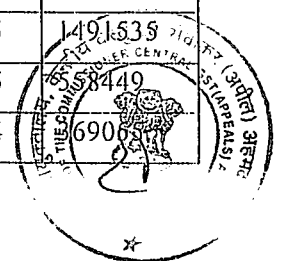
ORDER IN APPEAL

The Assistant Commissioner, CGST Division VIII, Ahmedabad South (hereinafter referred to as the appellant) has filed following appeals against Order passed by the Assistant Commissioner, CGST, Division VIII, Ahmedabad South (hereinafter referred to as the adjudicating authority) sanctioning refund to M/s.Maxim Exports, 708, Mauryansh Elanza, Shyamal Cross Road, Satellite, Ahmedabad 380 015 (hereinafter referred to as the respondent).

Sr No.	Appeal No.	Date of filing appeal	Impugned order No. and date	Amount of refund in dispute	Claim period
1	GAPPL/ADC/GSTP/192/2021	28-10-2021	ZW2404210334538/28-4-2021	561205/-	February 2021
2	GAPPL/ADC/GSTP/51/2022	9-12-2021	ZT2406210243774/21-6-2021	1491535/-	March 2021
3	GAPPL/ADC/GSTP/52/2022	9-12-2021	ZO2406210243907/21-6-2021	558449/-	April 2021
4	GAPPL/ADC/GSTP/62/2022	31-12-2021	ZZ2407210235986/19-7-2021	369055/-	May 2021
5	GAPPL/ADC/GSTP/63/2022	31-12-2021	ZO2408210191087/13-8-2021	245852/-	June 2021
6	GAPPL/ADC/GSTP/61/2022	31-12-2021	ZS2408210381932/28-8-2021	209102/-	July 2021

2. The facts of the case in all the above appeals are same. The respondent registered under GSTIN 24AKQPS8709Q1Z1 has filed refund claim for refund of ITC accumulated due to export of goods without payment of tax. The adjudicating authority vide impugned orders sanctioned refund to the respondent. During review it was observed that the 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 turnover of zero rated supply has been taken which is the invoice value of goods exported whereas as per shipping bill the FOB value was lesser than the invoices. As per para 47 of Circular No.125/44/2019-GST dated 18-11-2019 it was clarified that during the processing of refund claim, the value of goods cleared in GST invoice and 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 ie FOB value as per shipping bill and by applying the formula for refund the admissible refund comes to less than the refund sanctioned by the adjudicating authority. Thus the adjudicating authority has sanctioned excess refund to the respondent which is required to be recovered from the respondent along with interest. The details are as under:

Claim period	Turnover of zero rated supply (invoice value)	Turnover of zero rated supply (FOB value)	Net ITC	Adjusted total turnover	Refund sanctioned	Refund admissible	Excess refund sanctioned
Feb 21	135682632	119634400	4744811	135682632	4744811	4183606	561205
March 21	124563984	99988876	7560150	124563984	7560150	6068615	1491535
April 21	144304732	120524474	3388814	144304732	3388814	2830365	8449
May 2021	106373109	88869463	2242819	106373109	2242819	1873764	69068

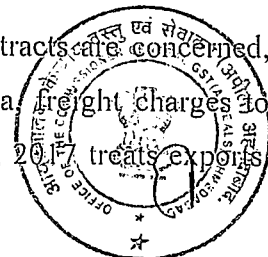


June 2021	83905127	69685460	1450682	83905127	1450685	1204833	245852
July 2021	52053489	44601522	1460621	52053489	1460621	1251519	209102

3. In view of above the appellant filed the present appeal on the ground that the adjudicating authority has failed to consider the lower value of zero rated turnover while granting the refund claim of ITC accumulated due to export of goods without payment of duty as required under Circular No.125/44/2019-GST dated 18-11-2019 which has resulted in excess sanction of refund to the claimant. In view of above, the appellant prayed to set aside the impugned orders and to pass order directing the original authority to demand and recover the refund erroneously sanctioned to the respondent along with interest and to pass any other orders as deem fit in the interest of justice.

4. The respondent vide letter dated 15-7-2022 filed cross objection as under:

- i. The basic purpose behind bringing GST into Indian economy is to remove cascading effects, avoid unnecessary blockage of working capital and avoid double taxation and allowing free flow of credit in the system. The entire provisions of GST Law are drafted in accordance with the aforementioned specified objective of seamless flow of ITC. For export of goods/services another underlying objective was to export only goods/services outside India and not to tax on the same. The provisions of GST Law are drafted in accordance with the aforementioned objective of non export of tax burden outside India. Further to increase the competitiveness of the Indian goods in the foreign market refund of tax charged in India including various other export incentives are granted.
- ii. Export sales are done in the international market as per INCOTERMS which lays down internationally accepted forms of transaction. Significant terms that govern this arena are FOB, Cost and Freight (C&F) and Cost, Insurance and Freight (CIF) etc. Free on Board (FOB) means the value of goods at the time of Board and C&F means Cost and Freight ie value of goods at the time of delivery to recipient port, which include cost and transportation. As per the agreements entered with the customers different exporters adopt different transactions and raise invoices for agreed transaction. In the case of C&F contracts, freight export are borne by the exporters and an invoice is raised. In turn the recipient of goods pays the amount mentioned in the invoice raised by the exporter. As far as the recipient is concerned, he is least bothered about the cost, freight, instead he pays the entire consideration to his suppliers (exporter).
- iii. The value of goods and services were determined under Section 15 of CGST Act, 2017 which is even made applicable to IGST Act vide Section 20 of IGST Act 2017 deals with valuation.
- iv. As per Section 15 of CGST Act, 2017, it is evident that the value of supply of goods or services is the transaction value, which is defined under the statute itself. It is clear from the above that in case of export of goods under C&F contracts the actual price paid by the recipient to the suppliers (exporter) for the said supply is the transaction value, which is nothing other than the value of the supply. As far as C&F contracts are concerned, the recipient pays the price mentioned in the invoice including sea freight charges to his exporter for the supply of goods. Since Section 7 of IGST Act, 2017 treats exports and



- importers as inter-state supplies, the value should be strictly made as per the provisions of GST.
- v. Traders are confused as to under which Law the value of export of goods has been done viz. whether under GST or under Customs Act. In this background Circular No.37/11/2018-GST dated 15-3-2018 and Circular No.125/44/2019-GST dated 18-11-2019 was issued by the CBIC which clarified that valuation has to be made strictly following the provisions under GST Law. The aforementioned Circular reiterated that the export of goods or services, ie zero rated supplies are to be effected under GST Laws and thereby the value of supply shall be the invoice value (transaction value). In the instant Circular here it nowhere addressed to consider FOB value for the purpose of refund of unutilized ITC.
 - vi. The value mentioned in the shipping bill is derived from export invoice only. The values shall always match what is mentioned in the shipping bill and export invoice therefore the aggregated turnover shall be value reported in the shipping bill and export invoice.
 - vii. In the shipping bills two values have to be declared by the exporter ie FOB value and invoice value. The exporter needs to declare the value of goods at the time of export in FOB column and the actual transaction value (the amount that is actually going to be received from his customer) in invoice value column.
 - viii. The adjudicating authority has considered the zero rated value as referred at the ICEGATE website for ascertaining the refund claim. There is no provision under GST Law for referring value appearing in the website for purpose of assessment of refund claim. The verification of ICEGATE website for the purpose of ascertaining authenticity of shipping bill pertaining to refund not considering the zero rated value for assessment of refund.
 - ix. The refund of unutilized ITC in respect of zero rated supplies of goods has categorically explained that value under GST invoice should normally be the transaction value under Section 15 of CGST Act, 2017. That lower value of the two value is to be ascertained in case of difference in export value declared in the shipping bill and in GST Invoice.
 - x. The Department of Delhi Customs has issued a FAQ on refund of IGST on goods export out of India, wherein in answer to question No.16 it was stated that after the implementation of GST, it was explained in the advisories that the details an exporter is required to enter in the invoice column while filing the SB pertains to the invoice issued by him compliant to GST Invoice Rules. The invoice number shall be matched with GSTIN to validate exports and IGST payment. It was conveyed and reiterated that there should not be any difference between commercial invoice and GST invoice after implementation of GST since as per GST Law, IGST is to be paid on the actual transaction value of the supply between the exporter and consignee which should be the same as the one declared in the commercial invoice.
 - xi. In the said refund circular nowhere it refers to FOB value to be compared with taxable value mentioned in export invoice for sanction of refund claim. It has been emphasised that there is no terminology defined as FOB value under GST Law. As far as expenditure incurred to the extent of freight shall be part of value of supply in terms of Section 15 of CGST Act, 2017.

- xii. The declared transaction value ie C&F value in their export invoices as the value recorded in the GST invoice should be the transaction value as determined under Section 15 of CGST Act, 2017 read with Rules made thereunder.
- xiii. So far as GST Law is concerned, valuation of supply, both DTA sales (supply within India) and export of goods is governed under Section 15 of CGST Act, 2017 only. In other words, 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, incidental expenses before delivery of goods shall form part of value of such supply.
- xiv. The respondent relied upon the judgment in the case of M/s.Ashapura Overseas Pvt.ltd ; M/s.HD Microns Ltd and M/s.Sayana Enterprises.
- xv. The approach of the department by rejecting partial refund is arbitrary, illegal and bad in Law as they have considered FOB value instead of transaction value in terms of Section 15 of CGST Act and ignored the definition of turnover of zero rated supply of goods as given in refund Rules. In view of the previously mentioned submissions the respondent requested that their claim of refund is current and in accordance with Law.
- xvi. The contention of the appellant regarding invoice value to be considered for the purpose of adjusted turnover for calculation of refund claim as per Rule 89 of CGST Rules, 2017 read with Circular No.125/44/2019-GST dated 18-11-2019 is against the objective of the GST Law and nullifies the objective of the same.
- xvii. As per the contention of the appellant to consider separate values of same underlying transaction for the purpose of calculation of adjusted total turnover by considering the invoice value and FOB value for the purpose of Zero rated turnover result into indefinite permanent blockage of GST credit and unwarranted blockage of GST refund.
- xviii. The underlying objective of GST as per provisions of Section 16 (3) of IGST Act is to refund the entire amount of unutilized ITC used for making zero rated supply under bond or LUT. This underlying objective gets defeated by the contention of the appellant and the same is unwarranted and bad in Law.
- xix. As per definition of Rule 89 of CGST Rules, 2017, the adjusted turnover includes zero rated turnover and hence the value considered for the purpose of zero rated turnover needs to be considered for the purpose of calculation of adjusted total turnover and there cannot be two value for same underlying transaction.
- xx. It is clearly misconstruction of para 47 of Circular NO.125/44/2019-GST dated 18-11-2019 by the appellant to consider the lower FOB value for zero rated turnover and invoice value for the purpose of adjusted turnover calculation. The formula to consider the lower value of FOB or invoice value for the purpose of refund is applicable for calculation of entire refund calculation and not just the zero rated turnover.
- xxi. In nutshell two different values cannot be adopted for determining value of turnover of zero rated supply of goods for numerator and denominator for the purpose of formula provided under Rule 89 (4) of CGST Rules, 2017.
- xxii. In view of above submissions the respondent requested to set aside the appeal.



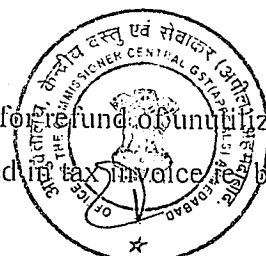
4. Personal hearing was held for all appeals on dated 18-7-2022. No appeared on behalf of the appellant. Shri Devam S Sheth and Shri Saket Shah, authorized representatives appeared on behalf of the respondent on virtual mode. They stated that they have nothing more to add to their written submission till date.

5. I have carefully gone through the facts of the case, grounds of appeal, submissions made by the appellant 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. The grounds 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.

6. 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 of goods 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:

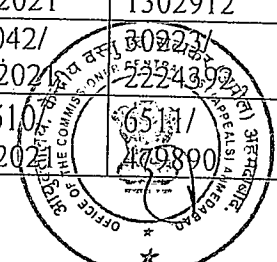
47. It has also been brought to the notice of the Board that in certain cases, where the refund of unutilized input tax credit on account of export of goods is claimed and the value declared in the tax invoice is different from the export value declared in the corresponding shipping bill under the Customs 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.

7. 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 between



transaction value under Section 15 of CGST Act, 2917 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 needs to be taken towards turnover of zero rated supply of goods. In this regard, on scrutiny of sample copy of invoices and corresponding shipping bills submitted by the respondent, I find that in some of invoices the respondent has supplied goods on cost basis and under some of invoices supplied the goods charging cost and freight in USD/INR terms. On correlating the invoices with corresponding shipping bills I find that cost and freight as per invoices and FOB and freight in shipping bill are same in USD and more or less same in INR. I have also correlated the above invoices with the worksheet showing lower value arrived by the appellant annexed to appeal. I find that FOB value as per shipping bill was compared with cost and freight value as per invoices. Accordingly, wherever FOB value as per shipping bill was lower than invoice value comprising cost and freight, FOB value as per shipping bill was taken towards turnover of export goods. It is pertinent to note that in some of invoices where the appellant has supplied the goods on cost basis ie without including freight, no difference in value was noticed in the worksheet. The following table clarify the method adopted in appeal.

Claim period	Invoice Number and date	Cost as per invoice In USD/INR	Freight as per Invoice USD/INR	Total as per Invoice USD/INR	Shipping Bill No. and date	FOB value as per shipping Bill taken in appeal
Feb 21	MA/SA/878 1-12-2021	28037/ 2021453	0	28037/ 2021453	8330334/ 1-2-2021	28037/ 2021453
	MA/SA/990 22-2-2021	16282/ 1172275	0	16282/ 1172275	8824579 22-2-2021	16282/ 1172275
Mar 21	MA/SA/1016 4-3-2021	28486/ 2050992	8060/ 580320	36546/ 2631312	9119198/ 4-3-2021	28486/ 2051022
	MA/SA/1082 30-3-2021	11600/ 830560	3196/ 228834	14796/ 1059394	9767854/ 30-3-2021	11600/ 830560
Apr. 21	MASA/003 2-4-2021	44237/ 3167354	11775/ 843090	56011/ 4010445	9862272/ 3-4-2021	44237/ 3204956
	MA/SA/076 29-4-2021	5393/ 401508	700/ 52115	6092/ 453589	1466569/ 29-4-2021	5393/ 401474
May 21	MA/SA/91 4-5-2021	33009/ 2457529	0	33009/ 2457529	1568662/ 4-5-2021	33009/ 2457529
	MA/SA/131 20-5-2021	32168/ 2349872	8575/ 626404	40743/ 2976305	1892295/ 20-5-2021	32168/ 2349902
June 21	MA/SA158 4-6-2021	5986/ 432488	3985/ 287916	9971/ 720376	2215190/ 4-6-2021	5986/ 432460
	MA/SA/188 22-6-2021	17245/ 1256298	7040/ 512864	24285/ 1769152	2602561/ 22-6-2021	17885/ 1302912
July 21	MA/SA/211 15-7-2021	30223/ 2224413	7800/ 574080	38023/ 2798472	3161042/ 15-7-2021	30223/ 2224413
	MA/SA/229 28-7-2021	6511/ 479861	5150/ 379555	11661/ 858445	3498510/ 30-7-2021	6511/ 479890



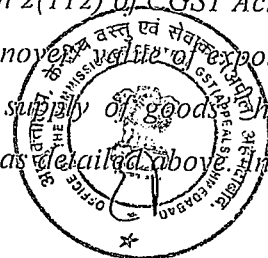
8. In view of above I find that the method adopted for considering FOB value as per shipping bill towards turnover of zero rated supply of goods is factually wrong and incorrect and not consonance with statutory provisions inasmuch as i) there is no difference in value of goods as per Invoices and FOB value as per shipping bills and ii) The FOB value was lower not due to lesser than invoice value but on account of non inclusion of freight charged in shipping bill to the shipping bill value. Therefore, I am of the view that neither the situation envisaged in the aforesaid Circular exist in this case nor the value declared in shipping bill was lower than the value declared in invoice so as to consider the FOB as per shipping bills towards turnover of zero rated supply of goods.

9. The respondent further contended that the value considered for the purpose of zero rated turnover needs to be considered for the purpose of calculation of adjusted total turnover and that there cannot be two values for same underlying transaction ; that it is misconstruction of the Circular by the appellant to consider lower FOB value for zero rated turnover and invoice value for the purpose of adjusted turnover and that two different values cannot be adopted for determining value of turnover of zero rated supply of goods for numerator and denominator in the formula under Rule 89 (4) of CGST Rules, 2017. I find force in above submission also.

10. As per definition of 'adjusted total turnover' defined in clause (E) of sub-rule (4) of Rule 89, 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. Accordingly, 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 the present case the value of zero rated turnover was taken as FOB value as per shipping bill. However, the adjusted turnover is taken as per invoice value. Apparently, this result in adopting two different values for same zero rated supply of goods, which I find is not a rational and logical method and not in consonance with statutory provisions. A close reading of para 47 of Circular No.125/44/2019-GST dated 18-11-2019 further reveals that lower value among invoice and shipping bill is to be taken for calculating eligible amount of refund and not for arriving zero rated turnover at numerator in the formula. Therefore, I find that the same value of zero rated supply of goods taken in turnover of zero rated supply of goods need to be taken in adjusted total turnover also for arriving admissible refund. Consequently, even if the shipping value (FOB value) is taken as turnover of zero rated supply of goods, the same value should be taken in adjusted total turnover towards value of zero rated supply of goods for determining the admissible refund.

11. I also refer to para 4 of CBIC Circular NO.147/03/2021-GST dated 12-3-2021, wherein Board has given guidelines for calculation of adjusted total turnover in an identical issue as under:

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 of goods exported/ 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



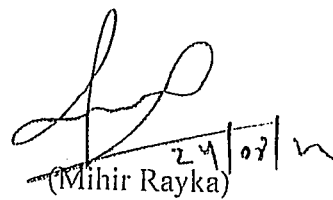
the above, it can be stated that the same value of zero-rated/ export supply of goods, as calculated as per amended definition of "Turnover of zero-rated supply of goods", need to be taken into consideration while calculating "turnover in a state or a union territory", and accordingly, in "adjusted total 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.

12. Applying the above clarification, the value of turnover of zero rated supply of goods taken towards turnover of zero rated supply of goods need to be taken as value of zero rated supply of goods in adjusted total turnover in the formula. In other words, in cases where there is only zero rated supply of goods, turnover value of zero rated supply of goods at numerator and turnover value of zero rated supply in total adjusted total turnover at denominator will be same. In the subject case the respondent has claimed refund taking into account same value towards turnover value of zero rated supply of goods and adjusted total turnover. On scrutiny of GSTR3B returns, I find that that during the claim period the respondent has made 100% zero rated supply of goods and not made any non zero rated supply of goods/services. Accordingly, in this case even by taking the FOB value as per shipping bill value as turnover of zero rated supply of goods the same value will figure in adjusted turnover also and in that case I find that there is no erroneous/excess sanction of refund.

13. 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. I further find that the impugned orders passed by the adjudicating authority sanctioning refund claimed by the respondent is legal and proper and in consonance with statutory provisions. 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 |


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

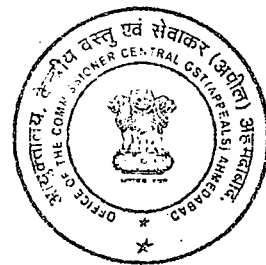

(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested


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



By RPAD

To,

The Asst./Deputy 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) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 5) M/s. Maxim Exports, 708, Mauryansh Elanza, Nr. Parekhs Hospital,
Shyamal Cross road, Satellite, Ahmedabad-380015
- 6) Guard File
- 7) PA file

