



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-

टेलिफैक्स 07926305136



DIN- 202208645W0000000ADC

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/842/2022 -APPEAL/3125 - 30

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-96/2022-23**
दिनांक Date : **30-08-2022** जारी करने की तारीख Date of Issue : **30-08-2022**

श्री मिहिर रायका_अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. **ZS2407210345042 DT. 27.07.2021** issued by Assistant Commissioner, CGST, Division-VI, Ahmedabad South

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

**Canara Bank (Syndicate Bank) Neptune Towers, Ashram Road,
Opp Nehru Bridge, Ahmedabad-380009**

(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

Syndicate Bank (now Canara Bank), Neptune Towers, Ashram Road, Ahmedabad 380 009 (hereinafter referred to as the appellant) has filed the present appeal online on dated 26-10-2021 against Order No.ZS2407210345042 dated 27-7-2021 (hereinafter referred to as the impugned order) passed by the Assistant Commissioner, CGST, Division VI (Vastrapur), Ahmedabad South (hereinafter referred to as the adjudicating authority).

2. Briefly stated the facts of the case is that the appellant registered under GSTIN 24AACCS4699E1Z7 has filed refund claim for refund of Rs.2,33,966/- on account of excess payment of tax during the period 2019-2020. The appellant was issued show cause notice reference No.ZS2407210083597 dated 7-7-2021 for rejection of refund on the ground that there is no such provision in CGST Act, 2017 for refund on account of GSTR3B liability is more than GSTR1 in the Table 9 of GSTR9. The adjudicating authority vide impugned order held that refund is inadmissible to the appellant on the ground that in personal hearing the authorized person submit that refund arise due to tax paid on intra state supply which is subsequently held to be inter state supply and vice versa. According to Circular no.125/44/2019-GST the claimant filed refund in wrong category.

3. Being aggrieved the appellant filed the present appeal on the following grounds:

- i. The impugned order is bad in Law and against the facts of the case;
- ii. The adjudicating authority failed to appreciate the fact that refund can be claimed by assessee using refund option as 'refund of tax paid on an intra state supply which is subsequently held to be inter state supply and vice versa'. If an order is issued by the tax officer against which the refund is arriving due to change in place of supply of a particular transaction. Further to file a claim under the category 'refund of tax paid on an intra state supply which is subsequently held to be inter state supply and vice versa' it is mandatory to mention Order No along with date of order, in absence of which application can't be uploaded in the portal. As there is no such order issued to us, they had filed their refund claim under excess payment of tax.
- iii. The adjudicating authority failed to appreciate the fact that the Bank has discharged GST twice on the same transaction. The adjudicating authority further failed to appreciate the fact that the credit notes were filed to reverse GST paid under wrong GST head. The adjudicating authority failed to appreciate the fact that the credit notes were filed in September 2020 and at that time there was no outward liability (in view of merger of Syndicate Bank with Canara Bank with effect from 1-4-2020) against which credit note could have been adjusted. The adjudicating authority failed to appreciate the fact that the Bank has provided original transaction details showing the payment of GST under wrong GST head, credit note transaction detail for reversing such transaction and correction entries details showing the payment of GST under correct GST heads. In view of above submissions the appellant requested to set aside the impugned order and grant refund.

4. Personal hearing was held on dated 12-7-2022. Shri Naresh Kumar, authorized representative/bank employee appeared on behalf of the appellant on virtual mode. He stated that he has nothing more to add 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 the refund claim was filed under the category excess payment of tax which has been rejected due to the reason that during personal hearing the authorized person mentioned as refund arise due to tax paid on intra state supply which is subsequently held to be inter state supply and vice versa and hence claim was found to be filed under wrong category. It is apparent from the above findings that claim was rejected on the reason which was arrived not on the basis of refund application and documents filed with the claim but based on the verbal submission made by authorized person. However, I find from the grounds of appeal that the appellant themselves admitted that claim was made for refund of tax paid on intra state supply which is subsequently held to be inter state supply and vice versa but the claim was fined under category of excess payment of tax due to absence of mentioning related details. I find that Section 77 of CGST Act, 2017 read with Section 19 of the IGST Act read with Rule 89 (1A) of CGST Rules, 2017 read with Circular No. 162/18/2021-GST dated 25-9-2021 allows refund of tax paid on intra state supply which is subsequently held to be inter state supply and vice versa subject to conditions specified therein. Further Rule 92 of CGST Rules, 2017 envisage to examine the refund application and to pass order sanctioning/rejecting refund recording reasons for the same. Accordingly, I find that merely because claim was made under wrong category, it does not merit outright rejection and the adjudicating authority should have examined admissibility of refund on the basis of documents submitted with the claim and in accordance with statutory provisions. Therefore, reason given in the impugned order I find is not a justifiable and sustainable reason for rejection of refund.

6. In view of above I hold that the impugned order passed by the adjudicating authority rejecting refund on the grounds mentioned therein is not legal and proper and deserve to be set aside. Therefore, I allow the present appeal with consequential benefit to the appellant. I further order that any claim of refund made in consequence to this Order may be dealt with in accordance with relevant provisions of CGST Act and Rules made thereunder. Accordingly, I set aside the impugned order and reject the appeal filed by the appellant.

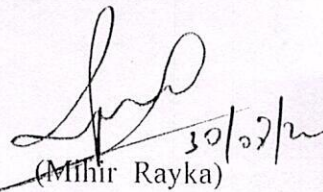
अपील कर्थाद्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

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

Date :

Attested

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


(Mihir Rayka)

Additional Commissioner (Appeals)



By RPAD,

To,

Canara Bank (Syndicate Bank)
Neptune Towers, Ashram Road,
Opp Nehru Bridge, Ahmedabad-380009

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) The Asst./Deputy Commissioner, CGST, Division-VI, Ahmedabad South
- ✓ 6) Guard File
- 7) PA file

