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 ii) 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 API- 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. 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 <u>twenty five per cent</u> of the remaining amount of Tax in dispute, in relation to which the appeal has been filed. 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.					•
Office of the Commissioner (Appeal), 하유럽 및 히एसए한, अपीस आयुक्तालय, अहमदाबाद Central GST, Appeal Commissionerate, Ahmedabad जोपसएं साव, राजरब मानं, अन्मवाडी अहमदाबाद 30015           Contral GST, Appeal Commissionerate, Ahmedabad जोपसएं साव, राजरब मानं, अन्मवाडी अहमदाबाद 30015           Correlation, Revenue Marg, Anthowada, Ahmedabad 380015           Office of the Commissionerate, Ahmedabad जोपसएं साव, राजरब मानं, अन्मवाडी अहमदाबाद 30015           OTH 202308445W000022272F एकरब साव प्रदे हाठा           एकरब हाठा           एकरब साव प्रदे हाठा           एकरब साव प्रदे हाठा           उनिक साव प्रदे हाठा           एकरब हाठा           प्रदे हाठा           एकरब हाठा           एकरब हाठा           उनिक साव प्रदे हाठा			भाराकन ( अपील )	का कार्यालय.	2005 ე. ა. თუთაგიგ. D. J
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अधील आरोस संख्या Order-In-Appeal Nos. AHM-CGST-001-APP-JC-100/2023-24     হিনাঁক Date :24.08.2023 আন करने की तारीच Date of Issue : 29-08-2023     औ आदेश कुमार जैन संदुबन आयुक्त (अपील) डास पारिव     Passed by Shri Adesh Kumar Jain, Joint Commissioner (Appeals)     Arising out of Order-In-Original No ZK2411220212158 DT. 18.11.2022 issued by The     Assistant Commissioner, CGST, Division-V, Ahmedabad South     a sufineard का नाम एवं पता Name & Address of the Appellant / Respondent     Mike, Patel Dairy Products Private limited,     The Assistant Commissioner, CGST,     Tank Bhavda Patya, Village-Kuha, Tai-     Daskrol, Ahmedabad-382433 (GSTIN:     ZAAUCP98961D128)     suficiently a suffice cited of provide any field of the appeal to the appropriate authority in the following     way.     National Bench or Regional Bench of Appealate 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.     State Bench or Area Bench of Appealate 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.     State Bench or Area Bench of Appealate Tribunal framed under GST Act/CGST Act other than as mentioned in     pare (Alt) above in terms of Section 109(5) of CGST Act, 2017.     State Bench or Area Bench of Appealate Tribunal framed under GST Act/CGST Act other than as mentioned in     pare (Alt) above in terms of Section 109(7) of CGST Act, 2017.     State Bench or Area Bench of Appealate Tribunal framed under GST Act/CGST Act other than as mentioned in     pare (Alt) above in terms of Section 109(7) of CGST Act, 2017.     State Bench or Area Bench of Appealate Tribunal framed under GST Act/CGST Act other than as mentioned in     pare (Alt) above in terms of Section 109(7) of CGST Act, 2017.     State Bench or Area Bench of Appealate Tribunal framed under GST Act/CGST Act other than as mentioned in     pareal under Section 112		स्टर्ड ड	ाक ए.डी. द्वारा		
अधील आरोस संख्या Order-In-Appeal Nos. AHM-CGST-001-APP-JC-100/2023-24     হিনাঁক Date :24.08.2023 আন জন্দ की तारीच Date of Issue : 29-08-2023     औ आदेश कुमार ठोन संपुक्त आयुक्त (अपील) डाय पारिव     Passed by Shri Adesh Kumar Jain, Joint Commissioner (Appeals)     Arising out of Order-in-Original No ZK2411220212158 DT. 18.11.2022 issued by The     Assistant Commissioner, CGST, Division-V, Ahmedabad South     a sufination of the second state of the Appealant / Respondent     M/s. Patel Dairy Products Private limited,     The Assistant Commissioner, CGST,     Invision-V, Ahmedabad South     a sufination of the second state of the Appealant / Respondent     M/s. Patel Dairy Products Private limited,     The Assistant Commissioner, CGST,     Ari, Swagat Industrial Estate, Opp. Water     Tank Bhavda Patya, Village-Kuha, Tai-     Daskrol, Ahmedabad-382433 (GSTIN:     Z4AAUCP9891DT28)     sufat(suff) a catRa site and and a second state of the appealate to the appropriate authority in the following     way.     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.     State Bench or Area Bench of Appellate Tribunal framed under GST Act/CGST Act other than as mentioned in     pare (Alt) above in terms of Section 109(5) of CGST Act, 2017.     State Bench or Area Bench of Appellate Tribunal framed under GST Act/CGST Act other than as mentioned in     pare (Alt) above in terms of Section 109(7) of CGST Act, 2017.     State Bench or Area Bench of Appellate Tribunal framed under GST Act/CGST Act other than as mentioned in     pare (Alt) above in terms of Section 109(7) of CGST Act, 2017.     State Bench or Area Bench of Appellate Tribunal framed under GST Act/CGST Act other than as mentioned in     pare (Alt) above in terms of Section 109(7) of CGST Act, 2017 and shall be     accompanied with a fee of Rs. One Thousand for every Rs. One Listh of Tax or input Tax Cribel in	क	ч	गइल संख्या : File No : <u>GAPPL/ADC/GSTP/115</u>	/2023 - APPEAL / 5077 -	ξZ
Passed by Shri Adesh Kumar Jain, Joint Commissioner (Appeals) Arising out of Order-in-Original No ZK2411220212158 DT. 18.11.2022 issued by The Assistant Commissioner, CGST, Division-V, Ahmedabad South authered an Time view of the Appellant / Respondent <u>Appealant</u> Respondent <u>Mis. Patel Dairy Products Private limited,</u> <u>A-1, Swagat Industrial Estate, Opp. Water Tank Bhavda Patiya, Village-Kuha, Tai- Daskrol, Ahmedabad-382433 (GSTIN: 24AAJCP9951D125) gt JJ21924 gt JJ2194707 के समस अर्थात वर्षे (Garation Commissioner, CGST, A-1, Swagat Industrial Estate, Opp. Water Tank Bhavda Patiya, Village-Kuha, Tai- Daskrol, Ahmedabad-382433 (GSTIN: 24AAJCP9951D125) gt JJ2194707 के समस अर्थात दायर कर सकता है! Any person aggrieved by this Order-in-Appeal may file an appeal to the appropriate authority in the following way. National Bench or Regional Bench of Appellate Tribunal framed under GST Act/CGST Act and the cases where one of the Issues involved relates to place of supply as per Section 109(5) of CGST Act, 2017. State Bench or Area Bench of Appellate Tribunal framed under GST Act/CGST Act other than as mentioned in pare-(A)(0) above in terms of Section 109(1) of CGST Act, 2017. Appeal to the Appellate Tribunal framed under GST Act/CGST Act other than as mentioned in pare-(A)(0) above in terms of Section 109(1) of CGST Act, 2017. Appeal to the Appellate Tribunal shall be filed as prescribed under Rule 100 of CGST Rules, 2017 and shall be appealed against, subject to a maximum of Rs. Twenty-Five Thousand. Appeal under Section 112(1) of CGST Act, 2017 to Appellate Tribunal shall be filed along with relevan documents either electronically or as may be notified of CGST Rules, 2017, and shall be addition to the amount paid under Section 112(2) of the CGST Act, 2017 after paying- () <u>Appeal under Section 112(1) of CGST Act, 2017</u> of Appellate Tribunal shall be filed along with relevan documents either electronically or as may be notified of CGST Rules, 2017, and shall be addition to the amount paid u</u>	ख	3	ग्पील आदेश संख्या Order-In-Appeal Nos. AHI	W-CGST-001-APP-JC-100/	
ব       Arising out of Order-In-Original No ZK2411220212158 DT. 18.11.2022 Issued by The Assistant Commissioner, CGST, Division-V, Ahmedabad South         খ       अणेलकर्ता का चाम एवं पता Name & Address of the Appellant / Respondent         Appellant       Respondent         Mis. Patel Dairy Products Private limited, A-1, Swagat Industrial Estate, Opp. Water       The Assistant Commissioner, CGST, Division-V, Ahmedabad South         Yata       Swagat Industrial Estate, Opp. Water       The Assistant Commissioner, CGST, Division-V, Ahmedabad South         Yata       Yata       The Assistant Commissioner, CGST, Division-V, Ahmedabad South         Yata       Yata       Division-V, Ahmedabad South         Yata       Yata       The Assistant Commissioner, CGST, Division-V, Ahmedabad South         Yata       Yata       Division-V, Ahmedabad South         Yata       Yata       Division-V, Ahmedabad South         Yata       Sata Sata       Sata Pariation Rate       Sata Pariation Rate         Yata       National Bench or Regional Bench of Appellate Tribunal framed under GST Act/CGST Act other than as mentioned in para-(Al(i) above in terms of Section 109(1) of CGST Rule, 2017         Yata       Sata Bench of Appellate Tribunal framed under GST Act/CGST Act other than as mentioned in para-(Al(i) above in terms of Section 109(1) of CGST Rule, 2017, and shall be accompanied with a fee of file. One Enbusand for every Rs. One Lakh of Tax or input Tax Credit involved or th digrerence in Tax or input		- 8	<b>ी आदेश कुमार जैन</b> संयुक्त आयुक्त (अपील) द्वारा	पारित	
ব       Arising out of Order-In-Original No ZK2411220212158 DT. 18.11.2022 issued by The Assistant Commissioner, CGST, Division-V, Ahmedabad South         খ       अपोलकर्ता का चाम पूर्व पता Name & Address of the Appellant / Respondent         Appellant       Respondent         Mis. Patel Dairy Products Private limited, A.4, Swagat Industrial Estate, Opp. Water       The Assistant Commissioner, CGST, Division-V, Ahmedabad South         Yama Barda Patiya, Village-Kuha, Tal-Deskroi, Ahmedabad-382433 (GSTIN:       Division-V, Ahmedabad South         Yata Alta Patiya, Village-Kuha, Tal-Deskroi, Ahmedabad-382433 (GSTIN:       Division-V, Ahmedabad South         Yata Alta Patiya, Village-Kuha, Tal-Deskroi, Amedabad South       Division-V, Ahmedabad South         Yata Alta Yata Xifira CatR at atenci El       Division-V, Ahmedabad South         Yata Alta Yata Xifira CatR at atenci El       Division-V, Ahmedabad South         Yata Alta Yata Xifira CatR at atenci El       Any person aggrieved by this Order-in-Appeal may file an appeal to the appropriate authority in the following way.         National Bench or Regional Bench of Appellate Tribunal framed under GST Act/CGST Act on the cases where one of the issues involved relates to place of supply as per Section 109(5) of CGST Rules, 2017 and shall be accompanied with a fee of file. One Edition 109(7) of CGST Rules, 2017.         State Bench or Area Bench of Appellate Tribunal framed under GST Act/CGST Act other than as mentioned in parei(Al(i) about in terms of Section 109(7) of CGST Act, 2017.         Mappeal to the Appellate Tribunal shall b		F	Passed by Shri Adesh Kumar Jain, Joint	Commissioner (Appeals)	
Assistant Commissioner, CGST, Division-V, Ahmedabad South 외 (해영화학 한 국내 전 역 역 (국대 Name & Address of the Appellant / Respondent Appellant Respondent M/s. Patel Dairy Products Private limited, A-1, Swagat Industrial Estate, Opp. Water Tank Bhavda Patiya, Village-Kuha, Tal- Daskroi, Ahmedabad-382433 (GSTIN: 24AAJCP9861D128) StateBench or Regional Bench of Appellate Tribunal framed under GST Act/CGST Act in the following way. 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. State Bench or Area Bench of Appellate Tribunal framed under GST Act/CGST Act that as mentioned in para- (A)(i) above in terms of Section 109(7) of CGST Act, 2017. Appeal to the Appellate Tribunal shall be filed as prescribed under GST Act/CGST Act other than as mentioned in para- (A)(i) above in terms of Section 109(7) of CGST Act, 2017. Appeal to the Appellate Tribunal shall be filed as prescribed under GST Act/CGST Act other than as mentioned in para- (A)(i) above in terms of Section 109(7) of CGST Act, 2017. Appeal to the Appellate Tribunal shall be filed as prescribed under Rule 110. of CGST Rules, 2012 and shall be down mortal as prescribed under Rule 110 of CGST Rules, 2017, and shall be filed along with relevant documents either electronically or as may be notified by the Registrar, Appellate Tribunal in PORM GST APL- 0 of the order appealed against within seven days of filing PORM CGST Act, 2017, and shall be filed along with relevant documents either electronically or as may be notified by the Registrar, Appellate Tribunal in PORM GST APL- 0 (i) Eul Immount of Tax. Interest. Rule, Eve and Penalty, arising from the sid order, as I admitted/accepted by the appellant, and (ii) A sum equal to twenty five per cent of the remaining amount of Tax in dispute, in admitted/accepted by the appellant, and (iii) A sum equal to twenty five per cent of the remaining amount of	·			·.	22 issued by The
Appellant         Respondent           M/s. Patel Dairy Products Private limited, A-1, Swagat Industrial Estate, Opp. Water Tank Bhavda Patiya, Village-Kuha, Tal- Dæskroi, Ahmedabad-382433 (GSTIN: 24AALCP9961D128)         The Assistant Commissioner, CGST, Division-V, Ahmedabad South           (A)         State Service	) ग	F	Assistant Commissioner, CGST, Division	-V, Ahmedabad South	
Appellant         Respondent           M/s. Patel Dairy Products Private limited, A-1, Swagat Industrial Estate, Opp. Water Tank Bhavda Patiya, Village-Kuha, Tal- Dæskroi, Ahmedabad-382433 (GSTIN: 24AA.JCP9961D128)         The Assistant Commissioner, CGST, Division-V, Ahmedabad South           (A)         Status and Status a	ध	• :	भूपीलकर्ता का नाम एवं पता Name & Address of	the Appellant / Responden	t
A-1, Swagat Industrial Estate, Opp. Water Tank Bhavda Patiya, Village-Kuha, Tal- Daskroi, Ahmedabad-382433 (GSTIN: 24AAJCP9951D1Z8)       Division-V, Ahmedabad South         (A)       इस आदेश(अपील) से व्यधित कोई व्यक्ति जिम्ललिखित तरीफे में उपयुक्त प्राधिकारी / प्राधिकरण के समझ 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.         (A)       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.         (A)       State Bench or Area 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.         (b)       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         (i)       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 B. One Thousand for every Rs. One Lakh of Tax or Input Tax Credit involved or the appealed against, subject to a maximum of Rs. Twenty-Five Thousand.         (a)       Appeal under Section 112(1) of CGST Act, 2017 to Appellate Tribunal shall be filed along with relevan documents either electronically or as may be notified by the Registrar, Appellate Tribunal in FORM GST APU- 05, on common portal as prescribed under Section 112(8) of the CGST Act, 2017 after paying - 10.         (i)       Appeal to be filed before Appellate Tribunal under Section 112(8) of the CGST Act,			. Appellant	Respondent	t
Daskroi, Ahmedabad-382433 (GSTIN: 24AAJCP9961D1Z8)         응자, 의감(의지)(취) 한 경직원(기 해) 등 경직원(기 해) 등 경직원(기 (대)(원(기 지(1)) 해)         (A)         기[1日과지) 해 관리관(기 해) 등 경직원(기 해) 등 경직원(기 (대)(원(기 지(1)))         (A)         National Bench or Regional Bench of Appellate Tribunal framed under GST Act/CGST Act in the cases when one of the issues involved relates to place of supply as per Section 109(5) of CGST Act, 2017.         National Bench or Area Bench of Appellate Tribunal framed under GST Act/CGST Act other than as mentioned in para- (A)(1) above in terms of Section 109(7) of CGST Act, 2017.         1)       State Bench or Area Bench of Appellate Tribunal framed under GST Act/CGST Act other than as mentioned in para- (A)(1) above in terms of Section 109(7) of CGST Act, 2017.         1)       Appeal to the Appellate Tribunal shall be filed as prescribed under Rule 110.of CGST Rules, 2012, and shall be accompanied with a fee of Rs. One Thousand for every Rs. One Lakh of Tax or Input Tax Credit Involved or th adcomments either electronically or as may be notified by the Registrar, Appellate Tribunal in FORM GST API 05, on common portal as prescribed under Rule 110 of CGST Rules, 2017, and shall be filed along with relevan documents either electronically or as may be notified by the Registrar, Appellate Tribunal in FORM GST API 05, on common portal as prescribed under Rule 110 of CGST Rules, 2017, and shall be accompanied by a cop of the order appealed against within seven days of filing FORM GST API. 05, on common portal as prescribed under Rule 110 of CGST Rules, 2017, and shall be accompanied by a cop of the order appealed against within seven days of filing FORM GST API. 05, on common portal as prescribed under Rule 110 of CGST Rules, 2017, and shall be accompanied		A-'	I. Swagat Industrial Estate, Opp. Water	Division-V, Ahmedabad Sou	ith
(A)       목표 आदेश(अपील) से व्यथित कोई व्यक्ति निम्ललिखित 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.         National Bench or Regional Bench of Appellate Tribunal framed under GST Act/CGST Act in the cases when one of the Issues involved relates to place of supply as per Section 109(5) of CGST Act, 2017.         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         ii)       Appeal to the Appellate Tribunal shall be filed as prescribed under GST Act/CGST Rules, 2017, and shall b 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 orde 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 relevar documents either electronically or as may be notified by the Registrar, Appellate Tribunal in FORM GST API documents either electronically or as may be notified by the Registrar, Appellate Tribunal in FORM GST API documents of the order appealed against within seven days of filing FORM GST API dos online.         i)       Appeal to be filed before Appellate Tribunal under Section 112(8) of the CGST Act, 2017 after paying - ()       Full amount of Tax, Interest, Fine, Fee and Penalty arising from the said order, a admitted/accepted by the appellant and (ii) A sum equal to twenty five per cent of the remaining addition to the amount paid under Section 107(6) of CGST Act, 2017,		Da	skroi, Ahmedabad-382433 (GSTIN:		
(A)       돼민한 등국 대 국제 관계 여 지급 민국  여국  대하지 등 1 Any person aggrieved by this Order-in-Appeal may file an appeal to the appropriate authority in the following way.         National Bench or Regional Bench of Appellate Tribunal framed under GST Act/CGST Act, 2017.         Image: State Bench or Area Bench of Appellate Tribunal framed under GST Act/CGST Act, 2017.         Image: 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         Image: 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         Image: 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         Image: State Bench of Appellate Tribunal shall be filed as prescribed under Rule 110 of CGST Rules, 2017, and shall be accompanied with a fee of Rs. One Housand for every Rs. One Lakh of Tax or Input Tax Credit involved or the 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 relevan 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 cop of the order appealed against within seven days of filing FORM GST APL 05 online.         Image: Section 112(1) of CGST Act, 2017 to Appellate Tribunal shall be accompanied by a cop of the order appealed against within seven days of filing	·.	24			
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### ORDER-IN-APPEAL

# Brief Facts of the Case :

M/s. Patel Dairy Products Pvt Ltd (Legal Name – Patel Dairy Products Pvt Ltd), A-1, Swagat Industrial Estate, Opp. Water Tank Bhavda Patiya, Village-Kuha, Tal-Daskroi, Ahmedabad – 382433 (hereinafter referred as 'Appellant') has filed the present appeal against the Refund Sanction/Rejection Order in the form RFD-06 bearing No. ZK2411220212158 dated 18.11.2022 (hereinafter referred as 'impugned order') passed by the Assistant Commissioner, CGST, Division – V, Ahmedabad South (hereinafter referred as 'Adjudicating Authority').

2. Briefly stated the fact of the case is that the 'Appellant' is engaged in business of Milk, Cream, Yogurt and other dairy products. The Appellant is holding GST Registration - GSTIN No.24AAJCP9951D1Z8 had filed the refund application of *"ITC accumulated due to Inverted Tax Structure"* for the Financial Year 2020-2021 on dated 09.01.2023 for Rs.9,84,550/-. In response to said refund claim a Show Cause Notice dated 21.10.2022 was issued to the 'Appellant'. It was proposed that refund application is liable to be rejected for the reasons *"Other"* with Remark as *"As the Adjusted Total Turnover is wrong, claimant has wrongly taken less amount than the actual Adjusted Total Turnover. It is also noticed that you have not reversed the ITC as per the provisions of Rule 42 of the <i>"GST Rules, 2017.* 

Thereafter, the '*adjudicating authority*' has rejected the partial amount of refund claim of Rs.7,56,954/- vide '*impugned order*' wherein a Remarks mentioned as:-

- (a) "I find that as per GSTR 3B for the relevant period, the Adjusted Total Turnover found to be Rs. 11,63,82,770/-. Hence, taking the found Adjusted Total Turnover, I calculate the refund which come to Rs. 2,27,596/- only and reject the remaining amount of claim.
- (b) The refund has been restricted to the ITC as per those invoices, details of which are uploaded by the supplier in Form GSTR-1 and are reflected in Form GSTR-2A of the applicant in terms of Circular No. 135/05/2020-GST dated 31.03.2020.

(C) Details of computation of refund claim amount and the admissible amount is tabulated as under:



#### F.No. : GAPPL/ADC/GSTP/115/2022

Calculation As per the original refund claim filed by the Claimant.

·			- +++ 2; 47	
Turnover of	Tax payable on	Adjusted total	Net Input Tax	Maximum refund
inverted rated	such inverted	turnover (3)	Credit (4)	amount to be
supply of goods	rated supply of		-	claimed
(1)	goods(2)	•		(5)((1*4)/3-2)
8,63,83,068	43,18,661	9,97,70,867	61,25,112	9,84,550.07

Calculation after verification of Data available and documents submitted by the claimant.

Turnover of	Tax .	Adjusted total	Net Input	Maximum	Refund	Refund	Amount
inverted	payable	turnover (3)	Tax Credit	refund	claimed by	amount	rejected
rated supply	on such		(4)	amount to be	claimant	san0ctioned	
of goods (1)	inverted	•		claimed	in		
• )	rated			(5)((1*4)/3-2)	application		•
	supply of						
	goods(2)				•		
8,63,83,068	43,18,661	11,63,82,770	61,25,112	9,84,550.07	9,84,550	2,27,596	7,56,954

**3.** Being aggrieved with the *impugned order* dated 18.11.2022 the '*Appellant*' has filed the present appeal on dated 04.01.2023 on the following grounds :

- The appellant deny all the allegations / observations raised in the show cause notice and state that the refund order is not sustainable.
- • The refund claim has been rejected on the basis of adjusted total turnover.

The basic provision of Rule 89(5) of CGST Rules, 2017

Laximum Refund Amount = {(Turnover of inverted rated supply of goods and services) x Net ITC ÷ Adjusted Total Turnover} - tax payable on which inverted rated supply of goods and services.

planation: - For the purposes of this sub-rule, the expressions –

(a) "Net ITC" shall mean input tax credit availed on inputs during the relevant period other than the input tax credit availed for which refund is claimed under sub-rules (4A) or (4B) or both; and

- (b) "Adjusted Total Turnover" means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the value of exempt supplies other than zero-rated supplies, during the relevant period.
- . While calculating the adjusted total turnover, the exempt supplies have to be deducted from the total turnover and accordingly, the calculation as under:

Particulars	Amount (In Rs.)
B2B Sales	77983819.34
· B2C Sales	64429471.89
Less Credit Note	1419349.41
Less: Exempted	42975815.34
	•
Total adjusted turnover	98018126.48
Taken into refund application	99770867.05
Difference	1752740.57

-While determining the adjusted total turnover amount of Rs. 11,63,82,770/- department has considered the exempted supplies twice and so calculation is incorrect.

In view of above submissions and grounds of appeal the appellant has made prayer as under :

To set aside the order of denial of Refund claim to Rs. 7,56,954/-.

- Allow the refund claim with consequential relief if any.

# Personal Hearing:-

4. Personal Hearings in the matter were offered to the "Appellant" on 11.07.2023, 18.07.2023 and on 27.07.2023. During the Personal Hearing Mr. Vipul Khandhar, C.A., was appeared as authorized representative and submitted written submission and reiterated the same. The Adjudicating Authority is not commensurate to the legal provision and Rule 89(5) of CGST Rules and accordingly re-verification is required, therefore request to remand back the case.

# **Discussion and Findings:**

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4. I have carefully gone through the facts of the case available on records, submissions made by the '*Appellant*' in the Appeals Memorandum. I find that the '*Appellant*' had preferred the refund application for refund of *"ITC accumulated due to Inverted Tax Structure"* Under Rule 89(5) of the CGST Rules, 2017 read with Section 54 of the CGST Act, 2017. Out of the total refund claim of Rs.9,84,550/-, the adjudicating authority has rejected refund of Rs.7,56,954/-.

I find that appellant in the present matter contended that adjudicating authority failed to take actual Total Turnover Rs.9,97,70,867/- in place of Rs.11,63,82,770/- while considered for calculating the admissible Refund amount. Appellant further contended that While determining the adjusted total turnover amount of Rs. 11,63,82,770/- department has considered the exempted supplies twice and so calculation is incorrect.

**6**. Further, I find that vide impugned order, adjudicating authority has stated that as per GSTR 3B for the relevant period, the Adjusted Total Turnover found to be Rs. 11,63,82,770/-, accordingly refund amount comes to Rs. 2,27,596/-. Adjudicating authority further stated that the refund has been restricted to the ITC as per those invoices, details of which are uploaded by the supplier in Form GSTR-1 and are reflected in Form GSTR-2A of the applicant in terms of Circular No. 135/05/2020-GST dated 31.03.2020.

F.No. : GAPPL/ADC/GSTP/115/2022

In view of above, I do not find any such statutory 7. documents/evidence produced by the Appellant or Respondent which substantiate their claim that actual Adjusted Total Turnover is Rs.9,97,70,867/- or Rs.11,63,82,770/-. In the present appeal the appellant and respondent are disputing about the correct amount of Adjusted Total Turnover to be considered for calculating the admissible Refund amount. However, I do not find any coherent/logical or reasoned submission made by both the party regarding calculation of the actual Adjusted total turnover.

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In view of above discussions, the impugned order passed 8. by the adjudicating authority is set aside for being not legal and proper and accordingly, I allow the appeal of the "Appellant" with a direction to the proper officer to consider the submissions of appellant and process the refund application after due verification of documents/details of appellant. The 'Appellant' is also directed to submit all relevant documents/submission before the adjudicating authority.

9.

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

(Adesh Kúmar Jain) Joint Commissioner (Appeals)

Date: 24.08.2023

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Attested

(Sandheer Kumar) Superintendent (Appeals) Central Tax, Ahmedabad By R.P.A.D.

Тο, M/s. Patel Dairy Products Pvt Ltd, (Legal Name - Patel Dairy Products Pvt Ltd), A-1, Swagat Industrial Estate, Opp. Water Tank Bhavda Patiya, Village-Kuha, Tal-Daskroi, Ahmedabad - 382433

### Copy to:

- The Principal Chief Commissioner of Central Tax, Ahmedabad Zone. 1.
- The Commissioner, CGST & C. Ex., Appeals, Ahmedabad. 2.
- The Commissioner, CGST & C. Ex., Ahmedabad-South. 3.
- The Dy/Asstt. Commissioner, CGST, Division-V, Ahmedabad South. 4. The Superintendent (Systems), CGST Appeals, Ahmedabad.
- <u>5</u>.
- Guard File. 10
- P.A. File 7.

