



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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टेलीफैक्स 07926305136



DIN- 20230864SW000000EE01

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/795/2023 -APPEAL / 5053-88

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-001-APP-JC-101/2023-24

दिनांक Date : 24.08.2023 जारी करने की तारीख Date of Issue : 29-08-2023

श्री आदेश कुमार जैन संयुक्त आयुक्त (अपील) द्वारा पारित

Passed by Shri Adesh Kumar Jain, Joint Commissioner (Appeals)

ग Arising out of Order-in-Original No ZH2410220179879 DT. 18.10.2022 issued by The Assistant Commissioner, CGST, Division-VII-S.G. Highway East, Ahmedabad North

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

Appellant	Respondent
M/s. J'D Sales (Legal Name- Devendra Jatashankar Purohit HUF), 2678, Inside kalupur Gate, kalupur, Ahmedabad - 380001 (GSTIN: 24AAGHD0222H1ZZ)	The Assistant Commissioner, CGST, Division-VII-S.G. Highway East, Ahmedabad North

(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) <u>Full amount of Tax, Interest, Fine, Fee and Penalty</u> 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 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**Brief Facts of the Case :-**

This appeal has been filed under Section 107 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "*the Act*") by M/s. J. D. Sales (Legal Name – Devendra Jatashankar Purohi HUF), 2678, Inside Kalupur Gate, Kaiupur, Ahmedabad – 380 001 (hereinafter referred to as "*Appellant*") against the Order No. ZH2410220179879 dated 18.10.2022 (hereinafter referred to as "*Impugned Order*") passed by the Assistant Commissioner, Range-1, Division-VII-S.G.Highway, CGST, Ahmedabad North (hereinafter referred to as "*the Adjudicating Authority/Proper Officer*").

2. Facts of the case, in brief, are that the *appellant* is registered under the Central Goods and Services Tax Act, 2017 vide GST Registration GSTIN 24AAGHD0222H1ZZ. The appellant is engaged in trading of Pan Masala and other item local and export. The appellant has filed refund claim for the month of July 2017 to March 2021. The appellant has filed the appeal to set aside the *impugned order* wherein the *adjudicating authority* has rejected the application for refund amounting to Rs. 14,89,727/-. During the submission of Form GST APL-01, the appellant has not submitted a copy of Order No. ZH2410220179879 dated 18.10.2022 and other related documents, in the office of CGST Appeals, Ahmedabad. The refund was rejected vide *impugned order* No. ZH2410220179879 dated 18.10.2022 by the Assistant Commissioner, Range-1, Division-VII-S.G.Highway, Ahmedabad North.

3. Being aggrieved with the *impugned order* dated 18.10.2022 the *appellant* has preferred the present appeal on 31.01.2023. In the appeal memo the appellant has submitted that -

- Out of 16 transaction in export for the financial year 2021-21 only 02 bill match in icegat site data.
- GSTR-1 export invoice mention in column 6A by mistake mention in previous GSTR-1.
- Requested for Personal Hearing for any other discussion.

Personal Hearing:-

4. Personal Hearings in the matter were offered to the "*Appellant*" on 12.07.2023, 25.07.2023, 31.07.2023 and 16.08.2023. However, no one appeared for the PH on the Scheduled dates and also not received any communication from *appellant* in this regard. The Personal Hearings were informed through letters F. No. GAPPL/ADC/GSTP/795/2023/2570,3115-

16,3611 and 4717 dated 28.06.2023, 14.07.2023, 26.07.2023 & 08.08.2023 respectively. The said letters* were dispatched to the appellant at their address at 2678, Inside Kalupur Gate, Kalupur, Ahmedabad - 380 001 through India Post.

Discussion and Findings :-

5. I have carefully gone through the facts of the case, grounds of appeal, submission made by the appellant and documents available on records. I find that the present appeal is filed to set aside the impugned order wherein the adjudicating authority has rejected the application for refund amounting to Rs. 14,89,727/-. The appellant has filed refund claim for the month of July 2017 to March 2021.

6. I observed that in the instant case, as against the impugned order of dated 18.10.2022, the appeal has been filed online on 31.01.2023 and submitted the copy of FORM GST APL-01 in this office on 02.02.2023. However, appellant had not submitted the copy of Order No. ZH2410220179879 dated 18.10.2022 (Order in Original). Accordingly, deficiency memo has been issued to appellant on 16.03.2023 to provide the same, however till date appellant has not submitted any reply.

7. I find that the appellant has been given Personal Hearing on 23.07.2023, 25.07.2023, 31.07.2023 and 16.08.2023, before deciding the matter by this appellate authority however, no one responded to the letters. Further, during submission of Form GST APL-01, the appellant has not submitted a copy of Order No. ZH2410220179879 dated 18.10.2022 and other related documents. Therefore, there I proceed to decide the matter based on available records.

8. In view of foregoing, I find that the appellant had filed the refund claim on common portal on 31.01.2023 and till 18.08.2023 the appellant fails to submit the copy of Order No. ZH2410220179879 dated 18.10.2022 and other related documents before the appellate authority. Further, even after communication made to appellant vide deficiency memo dated 16.03.2023 the appellant fails to submit the copy of Order No. ZH2410220179879 dated 18.10.2022 and other related documents as required under Section 107 of CGST Act, 2017 and Rules 108 of CGST Rules, 2017. Further, I refer to relevant statutory provisions governing filing of appeals to the appellate authority:-

Rule 108. Appeal to the Appellate Authority.-

(1) An appeal to the Appellate Authority under sub-section (1) of section 107 shall be filed in FORM GST APL-01, along with the relevant documents, either electronically or otherwise as may be notified by the Commissioner, and a provisional acknowledgement shall be issued to the appellant immediately.

(2) The grounds of appeal and the form of verification as contained in FORM GST APL-01 shall be signed in the manner specified in rule 26.

(3) [Where the decision or order appealed against is uploaded on the common portal, a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal:

Provided that where the decision or order appealed against is not uploaded on the common portal, the appellant shall submit a self-certified copy of the said decision or order within a period of seven days from the date of filing of FORM GST APL-01 and a final acknowledgment, indicating appeal number, shall be issued in FORM GST APL-02 by the Appellate Authority or an officer authorised by him in this behalf, and the date of issue of the provisional acknowledgment shall be considered as the date of filing of appeal:

Provided further that where the said self-certified copy of the decision or order is not submitted within a period of seven days from the date of filing of FORM GST APL-01, the date of submission of such copy shall be considered as the date of filing of appeal.]

9. In the current case I find that the appellant has not submitted the self certified copy of the order and relevant documents, the case could not be decided on merit. Further, on going through the appeal memo, submitted by the appellant, nothing is clearly mentioned about the facts of the case and relief desired. In view of foregoing discussions, I do not find any force in the contentions of the 'Appellant'. Therefore, I do not find any reason to interfere with the decision taken by the 'Adjudicating Authority' vide 'impugned order', therefore, I dismiss the present appeal filed by the 'Appellant'.

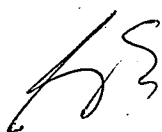
अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

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


(Adesh Kumar Jain)
Joint Commissioner (Appeals)

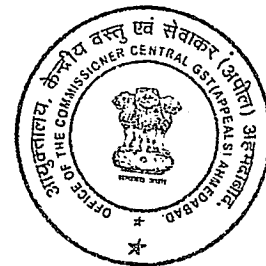
Date: 24.08.2023

Attested


(Sandheer Kumar)
Superintendent (Appeals)

By R.P.A.D.

To,
M/s. J.D.sales,
(Legal Name-Devendra Jatashankar Purohi HUF),
2678, Inside Kalupur Gate, Kalupur,
Ahmedabad - 380 001.



Copy to:

1. The Principal Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner, CGST & C. Ex., Appeals, Ahmedabad.
3. The Commissioner, CGST & C. Ex., Ahmedabad-South.
4. The Dy/Assistant Commissioner, CGST, Division-1-Rakhial, Ahmedabad South.
5. The Superintendent (Systems), CGST Appeals, Ahmedabad.
6. Guard File.
7. P.A. File

