



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- 20230964SW0000999F50

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTD/81/2023 -APPEAL / 150x-10
ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-JC-109/2023-24**
दिनांक Date : **31.08.2023** जारी करने की तारीख Date of Issue : **11-09-2023**

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 **ZC2408220173900 DT: 16.08.2022** issued by The Assistant Commissioner, CGST, Division-VII, Ahmedabad South

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

Appellant	Respondent
The Assistant Commissioner, CGST, Division-VII, Ahmedabad South	M/s. Paperchase Accountancy India Private Limited (GSTIN 24AADCP5642F1ZM), G-4, Opp. Chirag Motora, Capstone, Sheth Mangaldas Road, Ellisbridge, Ahmedabad, Gujarat-380006

(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-VII Ahmedabad South (hereinafter referred to as the '**Appellant/Department**') in terms of Review Order No. 66/2022-23 dated 10.02.2023 issued under Section 107 of the CGST Act, 2017, has filed the present appeal offline in terms of Advisory No.9/2020 dated 24.09.2020 issued by the Additional Director General (Systems), Bengaluru. The appeal is filed against Order No. ZC2408220173900 dated 16.08.2022 (hereinafter referred to as the '**Impugned Order**') passed in Form-GST-RFD-06 by the Assistant Commissioner, CGST, Division VII, Ahmedabad South (hereinafter referred to as the '**Adjudicating Authority**') sanctioning refund to **M/s. Paperchase Accountancy India Private Limited**, G-4, Opp.Chirag Motors, Capstone, Sheth Mangaldas Road, Ellisbridge, Ahmedabad 380006 (hereinafter referred to as the '**Respondent**').

2(i). Briefly stated the facts of the case is that the *Respondent* registered under GSTN No.24AADCP5642F1ZM had filed refund claim of Rs.1,13,16,610/- for the period October-2021 to March-2022 for refund of ITC accumulated due to export of goods/services without payment of tax vide ARN No. AA240722106256K dated 27.07.2022 under section 54(3) of the CGST Act, 2017. After verification of the refund claim, the *Adjudicating Authority* found the claim to be in order and accordingly sanctioned an amount of Rs.1,13,16,610/- to the claimant vide impugned order dated 16.08.2022 in form RFD-06.

2(ii). As per para 48 of circular no. 125/44/2019-GST dated 18.11.2019, it was clarified that the realization of consideration in convertible foreign exchange, or in Indian rupees wherever permitted by Reserve Bank of India, is one of the conditions for export of services. In case of export of goods, realization of consideration is not a pre-condition. In rule 89 (2) of the CGST Rules, a statement containing the number and date of invoices and the relevant Bank Realization Certificates (BRC) or Foreign Inward Remittance Certificates (FIRC) is required in case of export of services whereas, in case of export of goods, a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices is required to be submitted along with the claim for refund. It is therefore clarified that insistence on proof of realization of export proceeds for processing of refund claims related to export of goods has not been envisaged in the law and should not be insisted upon.

2(iii) Accordingly, during review of the said refund claim, it was noticed that higher amount of refund has been sanctioned to the claimant than what is actually admissible to them in accordance with the Rule 89(4) of the CGST Rules, 2017 read with Section 54(3) of the CGST Act, 2017. The turnover of

zero rated supply has been taken as Rs.27,22,84,729/- which is the invoice value of the goods exported, whereas, as per Statement-3[rule89(2)(h)], total BRC received was Rs.25,72,09,209/-. On applying the formulae for refund of export without payment of duty on the lower value, total BRC received, the refund admissible arrives to Rs. 1,06,90,046/- instead of Rs.1,13,16,610/- which was sanctioned by the adjudicating authority. Thus there had been an excess sanction of refund of Rs.6,26,564/- to the claimant which is required to be recovered alongwith interest.

3. In view of above facts, the *Appellant/Department* has filed the present appeal on following grounds:

(i) During review of the said refund claim, it was noticed that higher amount of refund has been sanctioned to the claimant than what is actually admissible to them in accordance with the Rule 89(4) of the CGST Rules, 2017 read with Section 54(3) of the CGST Act, 2017. The turnover of zero rated supply has been taken as Rs.27,22,84,729/- which is the invoice value of the goods exported, whereas, as per Statement-3[rule89(2)(h)], total BRC received was Rs.25,72,09,209/-. On applying the formulae for refund of export without payment of duty on the lower value, total BRC received, the refund admissible arrives to Rs. 1,06,90,046/- instead of Rs.1,13,16,610/- which was sanctioned by the adjudicating authority. Thus there had been an excess sanction of refund of Rs.6,26,564/- to the claimant which is required to be recovered alongwith interest.

that the adjudicating authority has failed to consider the lower value of zero rated turnover ie. Statement-3 [rule 89(2)(h)], total BRC received, while granting the refund claim of ITC accumulated due to export of goods/services without payment of tax as required under Circular No.125/44/2019-GST dated 18.11.2019; which has resulted in excess payment of refund of Rs.6,26,565/- to the claimant;

(iii) that In accordance to para 2(b)(iv), Advisory No.09/2020 dated 24.09.2020, issued by the ADG (Systems), the refund order in form GST-RFD-06 has been reviewed online through AIO system and grounds of appeal have been uploaded in the AIO system for approval with the competent authority for filing of appeal before the appellate authority; The functionality of filing appeal (GST-APL-03) is not available on the online system, therefore, the review order/grounds of appeal has been prepared offline.

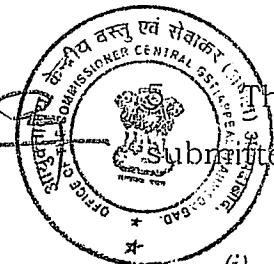
(iv) the impugned order passed by the Assistant Commissioner, CGST, Division-VII, Ahmedabad Sought in the case of the respondent is not proper and legal ; and prayed to

(v) to set aside the impugned order, wherein the adjudicating authority has erroneously sanctioned Rs.1,13,16,610/- instead of Rs.1,06,90,046/- under section 54(5) of the CGST Act, 2017;

(vi) also prayed to pass an order directing the said original authority to demand and recover the excess amount erroneously refunded of Rs.6,26,564/- with interest; and

(vii) to pass any other order as deemed fit in the interest of justice.

4. Personal hearing in the present matter was fixed on 11.07.2023 and 18.07.2023, on the latter date Mr. Darshan Belani, CA appeared on behalf of the Respondent as authorised representative. During PH he has submitted written submission dated 19.07.2023 and reiterated the same. He further stated that the total BRC received by them during the period are of Rs.31,43,75,807/- while in Statement-3, due to some technical glitch, stated Rs.25,72,09,209/- only. But during the course of personal hearing of refund and in their written submission all these details were furnished and explained, therefore they held that the refund sanctioned to them is correct. The issue raised in the Departmental Appeal is not legally and factually correct. This issue was raised at later date in review also and reply was sent by them on 07.02.2023 via email (copy of which was also duly submitted during PH) . Therefore departmental appeal has no merit and deserves to be dismissed.



The respondent vide their written submissions dated 19.07.2023, submitted during personal hearing has made the following submissions.

- (i) *That they are providing 100% export of services relating to accounting and book-keeping and therefore are eligible to claim refund of accumulated ITC and no other income is earned;*
- (ii) *That they are claiming refund from last more than 15 years and all queries related to the refund claims have been resolved by them on phone or emails through their representatives;*
- (iii) *That while filing the refund application for the period from October-2021 to March-2022 there had been some technical issues and some FIRC's numbers were not uploaded in Statement-3 but copies of all FIRC's were attached with their refund application.*
- (iv) *That during follow up of their refund claim, the jurisdictional refund sanctioning officer had raised many queries and one of them was related to non mentioning of few FIRC's in the Statement-3. Their representative explained him about the portal issues faced by them due to which they could not mention it in statement-3 however, furnished copies of those FIRC's;*

- (v) The adjudicating officer approved their refund claims only after verification of the said FIRC's;
- (vi) That during February-2023, they received a call from the assessing officer stating that their refund order is under review and asked for all FIRC's and Income Reconciliation Statement for verification. That their representative furnished all copies through email;
- (vii) That they have received all the amount in foreign currency as per the bills issued by them, but due to some technical error of GSTN portal they were unable to mention some of the FIRC's in Statement-3. Therefore the order passed by the adjudicating authority is proper and legal and rightly allowed their refund claim of Rs.1,13,16,610/- and no excess amount of refund was sanctioned and paid to the respondent.

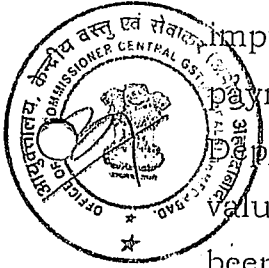
The respondent, along with their written submissions, has also furnished copies of the Inward Remittance Transaction Advice to authenticate their stand that no excess refund has been sanctioned to them.

Findings & Discussions

6. I have carefully gone through the facts of the case and submissions made by the respondent as well explained at the time of personal hearing. The limited point to be decided in the matter is whether the refund claim sanctioned to them is correct or otherwise.

7. I find that in the present case departmental appeal is filed against impugned order wherein refund of accumulated ITC due to export without payment of tax amounting to Rs.1,13,16,610/- was sanctioned. The department in the present appeal has mainly contended that the uploaded value of FIRC's amounts to Rs.25,72,09,209/- only whereas the respondent has been sanctioned refund taking the value of zero rated turnover to Rs.27,22,84,729/- against the export invoices. The department in its review order has contended that as per para 48 of the Board's Circular No.125/44/2019-GST dated 18.11.2019 read with Rule 89[(2)(h)], as per the said provisions the lower value of any of the two, i.e. either the invoice value of the goods exported or value as per the Statement-3, whereby the details of the total BRC received should be considered by the adjudicating authority for sanctioning of any refund claims.

8. Whereas, in the instant case the department's contentions in its appeal is that the adjudicating authority has considered the higher value of the zero rated supply as per the invoice value of the goods exported has been considered instead of the Statement-3, whereby total BRCs received and have



not applied the formulae for refund of export without payment of duty on the lower value.

As per para 4 of the aforementioned circular the manner of calculation of Adjusted Total Turnover under sub-rule (4) of Rule 89 of CGST Rules, 2017.

4.1 Sub-rule (4) of Rule 89 prescribes the formula for computing the refund of unutilised ITC payable on account of zero-rated supplies made without payment of tax. The formula prescribed under Rule 89 (4) is reproduced below, as under:

“Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover”

8. As per CBIC Circular No. 37/11/2018-GST F. No.349/47/2017-GST Government of India Ministry of Finance Department of Revenue Central Board of Excise and Customs GST Policy Wing New Delhi, Dated the 15th March, 2018 BRC / FIRC for export of goods: It is clarified that the realization of convertible foreign exchange is one of the conditions for export of services. In case of export of goods, realization of consideration is not a pre-condition. In rule 89 (2) of the CGST Rules, a statement containing the number and date of invoices and the relevant Bank Realisation Certificates (BRC) or Foreign Inward Remittance Certificates (FIRC) is required in case of export of services whereas, in case of export of goods, a statement containing the number and date of shipping bills or bills of export and the number and the date of the relevant export invoices is required to be submitted along with the claim for refund. It is therefore clarified that insistence on proof of realization of export proceeds for processing of refund claims related to export of goods has not been envisaged in the law and should not be insisted upon. I find in the instant case, the respondent has received the entire invoice amount in his account in foreign currency as per the copy of Inward Remittance Transaction Advice furnished by them during the course of the personal hearing.

9. I find that as per Section 16 (1) of the CGST Act, 2017, the appellant is entitled to take credit of input tax charged on any supply of goods/ services or both which are used or intended to be used in the course or furtherance of his business. Accordingly, bank charges in the refund of accumulated ITC during exports cannot be denied.

10. Also, I find from the contentions made by the respondent in their written submissions along with copies of the Inward Remittance Transaction Advice for the refund amount for the period from October-2021 to March-2022, it is clear that there shall be no effect on the value of an eligible refund, suppose the

value of zero rated supplies and value of adjusted turnover will be the same i.e., the numerator and denominator should be the same in the refund formula and therefore the amount of refund of ITC will have no effect, which is reproduced below;

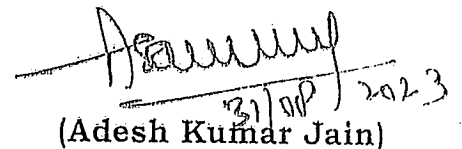
$$\text{Eligible Refund} = \frac{\text{Zero Rate Turnover}}{\text{Adjusted Turnover}} * \text{Input Tax Credit}$$

11. Also, as per Board's Circular No.197/09/2023-GST dated 17.07.2023, it has been clarified that consequent to Explanation having been inserted in sub-rule (4) of rule 89 of CGST Rules vide Notification No. 14/2022-C.T dated 05.07.2022, the value of the goods exported out of India to be included while calculating "adjusted total turnover" will be same as being determined as per the Explanation inserted in the said sub-rule.

12. In view of the above discussions and Board's Circular No.197/09/2023-GST dated 17.07.2023, I find that the *impugned order* passed by the *adjudicating authority* is proper and as per the provisions of GST law. Therefore, I do not find any reasons to interfere with the decision taken by the *adjudicating authority* vide "*impugned order*" and accordingly, I reject the appeal filed by the *appellant/department*.

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

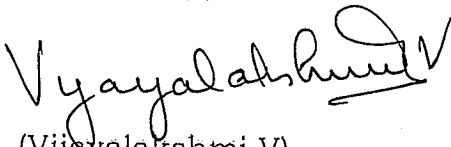
The appeal filed by the *appellant/department* stands disposed of in above terms.


(Adesh Kumar Jain)

Joint Commissioner (Appeals)

Date: 31.08.2023

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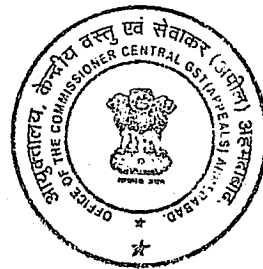


(Vijayalakshmi V)
Superintendent (Appeals)
By R.P.A.D.

By R.P.A.D.

To,

The Assistant / Deputy Commissioner, Appellant
CGST, Division - VII, Ahmedabad South.



M/s. Paperchase Accountancy India Pvt Ltd., Respondent
G-4, Opp. Chirag Motors, Capstone,
Sheth Mangaldas Road,
Ellisbridge
Ahmedabad - 380 006.

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-VII, Ahmedabad South.
5. The Superintendent (Systems), CGST & C. Ex., Appeals, Ahmedabad.
6. Guard File. / P.A. File

