



सं. यम. १८२-१

आयुक्त (अपील) का कार्यालय,

Office of the Commissioner (Appeal),

केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद

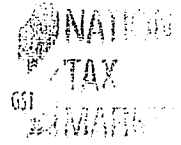
Central GST, Appeal Commissionerate, Ahmedabad

जीएसटी भवन, राजस्व मार्ग, अम्बावाडी अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015

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DIN- 20231064SW0000000E03

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या File No : GAPPL/ADC/GSTP/2737/2023 -APPEAL १७११५-१९

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-JC-141/2023-24**

दिनांक Date : **23.10.2023** जारी करने की तारीख Date of Issue : **30.10.2023**

श्री आदेश कुमार जैन संयुक्त आयुक्त (अपील) द्वारा पारित

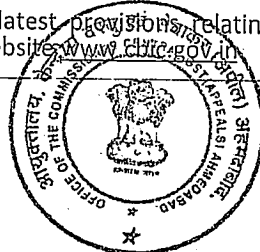
Passed by Shri Adesh Kumar Jain, Joint Commissioner (Appeals)

ग Arising out of **DRC-01A dated 10.04.2023** issued by The Assistant Commissioner, CGST, Division-VI, Ahmedabad South

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

Appellant	Respondent
M/s Bioweaves Retail LLP, 4th Floor, D-405, The First, Nr. Keshavbaug Party Plot, Vastrapur, Ahmedabad, Gujarat, 380015	The Assistant Commissioner, CGST, Division-VI, 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) <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 :**

M/s Bioweaves Retail LLP, 4th Floor, D-405, The First, Near Keshavbaug Party Plot, Vastrapur, Ahmedabad, Gujarat – 380 015 (hereinafter referred to as '*the appellant*') has filed the present appeal on dated 07.06.2023 against DRC-01A dated 10.04.2023 (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(i). Briefly stated the fact of the case is that the '*appellant*' registered under GSTN 24AAUFB5087E1Z8 had filed a refund claim of Rs.16,344/- alongwith interest of Rs. 2,016/- for ITC accumulated due to export of goods/services without payment of Tax u/s 54 of the CGST Act, 2017. The *adjudicating authority* has sanctioned the said refund claim amounting to Rs. 13,34,235/- vide *impugned order* (RFD 06) dated 05.08.2022. The issue involved in the present appeal is that the '*appellant*' had filed refund claim on account of ITC accumulated due to export of goods/services without payment of Tax for the period of October 2021 to December 2021; and the said claim is sanctioned by the adjudicating authority vide Order No. ZH2408220074955 dated 05.08.2022 in the form of GST-RFD-06. However, on going through the refund claim, department vide Review Order No. 64/2022-23 dated 01.01.2023 pointed out that higher amount of refund has been sanctioned to the claimant than what is actually admissible to them in accordance with Rule 89 of the CGST Rules, 2017 read with Section 54(3) of the CGST Act, 2017.

2(ii). It is noticed that the turnover of zero rated supply has been taken as Rs. 2,33,16,779/- which is the invoice value of the goods exported, whereas, as per the shipping bill FOB value, the turnover of zero rated supply is Rs. 2,29,62,233/-. Thus taking the lower value of goods exported, applying the formula for refund of export without payment of duty, the fund admissible comes to Rs. 13,17,891/- instead of Rs. 13,34,235/- sanctioned by the sanctioning authority. Thus, there is excess sanction of refund of Rs. 16,344/- to the appellant which is required to be recovered alongwith interest. Accordingly, department had issued DRC-01A dated 10.04.2023 to the appellant and advised to pay the excess refund amount of Rs. 16,344/- alongwith applicable interest. Further, the appellant had paid the said liability vide DRC-03 debit entry no. DC2404230048641, dated 14.04.2023. Now, the appellant filed a refund claim of Rs.16,344/- alongwith interest of Rs. 2,016/-

with a ground that the department has erred in determining the refund of the appellant and pray for refund of said amount.

PERSONAL HEARING :

3. Personal hearing was fixed/held on dated 06.10.2023 and 19.10.2023. Shri Dhruvin J. Amlani, C.A., authorized representative appeared on behalf of appellant. He stated that the impugned issue is already decided in the departmental appeal vide O-I-A No. AHM-CGST-001-APP-JC-87/2023-24 dated 11.08.2023. In view of above appeal may be allowed.

DISCUSSION AND FINDINGS :

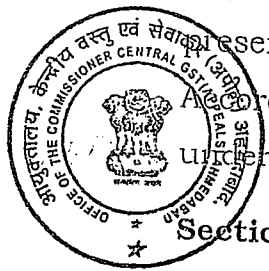
4. I have carefully gone through the facts of the case, grounds of appeal, submissions made by the *Appellant* and documents available on record. I find that the present appeal is filed to set aside the DRC-01A dated 10.04.2023 vide which the appellant had been advised to pay the excess refund amount of Rs. 16,344/- alongwith applicable interest. In the instant case I find that the said issue is already decided by this office in the department appeal vide O-I-A No. AHM-CGST-001-APP-JC-87/2023-24 dated 11.08.2023, in favour of the appellant.

5(i). Further, I find that in the instant case the appellant has filed the present appeal on dated 07.06.2023 against DRC-01A dated 10.04.2023. Accordingly, I find it pertinent to refer the relevant provisions, the same is as under:-

Section 107. Appeals to Appellate Authority.-

(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.

5(ii). In the said case I find that the present appeal is not in conformity to Section 107(1) of the CGST Act, 2017. As per the said provision the appellant has to filed appeal against any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority, however the appellant has filed the appeal against DRC-01A dated 10.04.2023, which is not a order passed under CGST Act or any SGST Act or any UTGST Act.



6. In view of the above discussions and without going into the merit of the case I dismiss the appeal filed by the appellant.

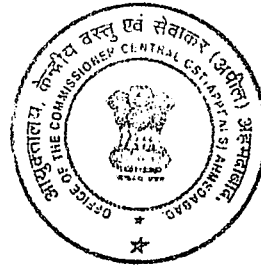
अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

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

Adesh Kumar Jain
23/10/2023
(Adesh Kumar Jain)
Joint Commissioner (Appeals)
Date: 23.10.2023

Attested

AS
(Sandheer Kumar)
Superintendent (Appeals)
Central Tax, Ahmedabad



By R.P.A.D.

M/s Bioweaves Retail LLP,
4th Floor, D-405, The First,
Near Keshavbaug Party Plot,
Vastrapur, Ahmedabad,
Gujarat - 380 015

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 Deputy/Assistant Commissioner, CGST & C. Ex, Division-VI (Vastrapur), Ahmedabad South.
5. The Superintendent (Systems), CGST & C. Ex., Appeals, Ahmedabad.
6. Guard File.
7. P.A. File

