



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, अम्बावाडी अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015

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DIN- 20231264SW000000EE27

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या File No : GAPPL/ADC/GSTP/2947/2023 -APPEAL/1223- 29

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-001-APP-JC- 167 /2023-24

दिनांक Date : 29.11.2023 जारी करने की तारीख Date of Issue : 06.12.2023

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. WS0801/Piramal/Tran-1 & 2/Verification/2022- 23 dated 15.02.2023 issued by The Superintendent, CGST & CX, AR-1, Div-VIII, Ahmedabad South.

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

Appellant	Respondent
M/s Piramal Water Private Limited, Office No. 705-709, Dev Aurum, Anand Nagar Char Rasta, Prahlad Nagar Road, Ahmedabad-380015	The Superintendent, CGST & CX, AR-1, Div-VIII, 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/sParimal Water Private Ltd, Office No. 705-709, Dev Aurum, Anand Nagar Char Rasta, Prahlad Nagar Road, Ahmedabad380 015 (hereinafter referred to as the 'Appellant') has filed the present appeal against Order issued vide F.No.WS0801/Parimal/Tran-1&2/Verification/2022-23 dated 15.02.2023(hereinafter referred to as the 'impugned order') issued by the Superintendent, CGST & C.Ex., AR-I, Division-VIII, Ahmedabad South.

2(i). Briefly stated the fact of the case is that the appellant is registered under GSTIN No. 24AAECP7137N1Z2 and engaged in supplies of potable water, R.O, parts, repair and maintenance of water purifying equipment's etc. During the course of audit and verification of the documents such as GSTR-9, GSTR-9C, ITC Register, purchase register, GSTR-2A and GSTR-3B for the FY. 2019-20, it was observed that the appellant has wrongly availed Input tax Credit of Rs.48,35,335/- in the month of March-2020 and subsequently utilized the same. The appellant has availed ITC of Rs.48,35,335/-without any documentary evidence, which was not admissible to them as per Section 17(a) of the CGST Act,2017. Further, the Chartered Accountant also made remarks, while filing GSTR-9C for the year 2019-20, in the table of reconciliation of input tax credit (ITC), where he observed that the ITC of Rs.48,35,335/- is taken in the month of March-2020 which is relating to closing balance of Cenvat Credit of M/s Alpex., Corporate Services and Merchandising Private Limited (Service Tax registration No. AAHCA4052CSD001).

2(ii). In the pre-GST regime, the taxpayer was registered under the provisions of Service Tax and was holding the Registration bearing No.AAECP7137NSDOO1. Further, M/s Alpex Corporate Services and Merchandising Private Limited (having Service Tax registration No. MHCA4052CSD001) was merged with M/s Piramal Water Pvt Ltd in accordance with the Order dated 09.08.2017 of The National Company Law Tribunal, Mumbai Bench, Mumbai vide CSP No.448/2017 and 449/2017 effective from the appointed date i.e. 01.04.2016. For transition of the various tax credit admissible under the existing law to GST Regime, form GST TRAN-I was prescribed. During the course of audit, documents related to such transitional credit were called for verification. Upon scrutiny of the documents, it appeared that the appellant had availed the Cenvat credit amounting to

Rs.48,35,335/- under "CGST Head in the month or March-2020 through GSTR -3B which was the closing balance of Cenvat Credit of M/s Apex Corporate Services and Merchandising Private Limited (Service Tax registration No.AAHCA4052CSD001) as reflected in the ST-3 return for the period April, 2017 to June, 2017.

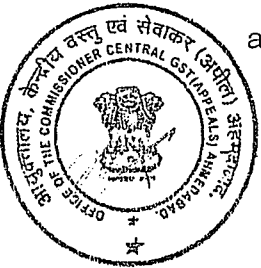
3. In this regard, Show Cause Notice was issued on 04.01.2023 and further adjudicating authority dated 15.02.2023 was issued to the appellant and confirm the demand on the following grounds: -

- M/s. Piramal water Pvt. ltd., has taken the said credit of Rs. 48,35,335/- in GSTR-3B for the month of March, 2020. Thus, the act of availing the Cenvat credit in the form of ITC in GSTR-3B is contravention of the provision of Section 140 of CGST, Act. It also appears that taxpayer has availed credit without any proper documents as prescribed in Section 16(2) of CGST Act 2017;

- As per revised Tran-1 credit claim of Rs. 2,89,625/- as per Table 7(a), Rs. 81,31,850/- and credit of Rs. 9,44,261/-, both claimed as per Table 7(b) has already been claimed in TRAN-1 filed earlier on 11/09/2017, thus disallowed under sections 140(1),140(3), 140(4)(b), 140(5) 140(6), 140(7) and 140(7) of the CGST Act 2017, as the same will be duplicated.

Remaining credit of Rs. 48,35,355/- as per Table 7(b) is the credit related to merger/amalgated company i.e. M/s, Apex Corporate Services and Merchandising Pvt. Ltd vide Hon'ble National Company Law Tribunal, Mumbai Bench, Mumbai's Order dated 11/09/2017 in the CSP No. 448 of 2017 and CSP No. 449 of 2017. They had already claimed the said credit in TRAN-1 filed earlier on 11/09/2017. Tran-1 credit of earlier period filed on 11/09/2017 has been verified during the audit of the unit conducted by the Audit Commissionerate, Ahmedabad, wherein they have denied the credit of Rs. 48,35,335/- and taken as a revenue para: In-eligible tax credit availed and utilized of acquired company, and issued Show Cause Notice No. 221/2022-23 dated 04/01/2023. In this regard and matter is pending thus deniable under 4.7 and Para 5 of Circular 180/12/2022 dated 09.09.2022.

- Taxpayer had now again claimed the said credit of Rs. 48,35,335/- in revised Tran-1/2 filed on 31/10/2022. They did not submitted any documentary proof/ relevant Invoices on the basis of which credit of Rs. 48,35,335/- pertaining to acquired company has been taken by them.

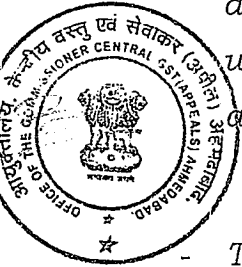


Further they have wrongly claimed credit in Table 7(b) instead of Table 5(a). Tax payer has not filed 1TC-02 for apportionment of Input Tax Credit (ITC) in cases of business re-organization under Section 18(3) of CGST Act, read with Rule 41(1) of CGST Rules.

- In view of the above, credit of Rs. 48,35,335/- of acquired company disallowed in terms of Sections 140(1), 140(5) and 140(7) of the CGST Act, 2017

4. Being aggrieved with the above order, the appellant filed the present appeal on 15.02.2023 (date of communication of order appeal against is 25.04.2023), on the grounds that:

- *That ALPEX has been merged with Appellant due to amalgamation scheme as approved by the NCLT vide Scheme no. vide CSP Number 448 of 2017 and 449 of 2017. The Assets and the liability of the ALPEX will become the assets and liability of the Appellant. With regards to the impugned credit of Rs. 48,35,335/-, which would otherwise would have been carry forwarded by the ALPEX, if the amalgamation would not have been taken. However, due to amalgamation appellant is entitled to get the credit of service tax which has been lying in ST-3 of the ALPEX. Copy of the ST-3 is enclosed along with the appeal memorandum;*



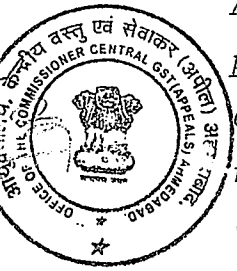
- *The appellant was not able to avail the said impugned Service Tax credit while filling original TRANS-1 submitted originally filed in 2017 due to technical glitches. Hence, he had to file revised TRANS-1 on 31.10.2022 after the Circular No.180/12/2022- GST dated 09.11.2022. Hence, on the basis of the above, the appellant was eligible to get the Service Credit as a credit of Central Tax*
- *there is no dispute with regards to the credit has been recorded in the books of account or not. The impugned credit has been duly recorded in account of ALPEX, and the services tax return ST-3 has been duly submitted within the time frame as stipulated in erstwhile regime. From the above it is submitted that the Id. authority has wrongly invoked the section 140 (5) of the CGST Act.*
- *Considering above, it is humbly prayed before your good honour to consider above and oblige and allow the credit through Revised TRANS-1 filed by the appellant and rejected by the Ld Superintendent, or pass an*

order to keep the status of Credit availed through GSTR 3B as if it is the credit availed by filing GST TRANS-1.

- The Id. Adjudicating authority in his order stated that impugned credit is deniable under the para 4.7 and 5 of the circular No. 180/12/2022-GST dated 09.09.2022. the para 4.7 of the Circular 180, it has been clearly stated that if the registered person who has filed the TRANS-1 and the same has been either wholly or partly rejected by the proper officer, the appropriate remedy in such cases is to prefer an appeal against the said order.
- that in the instant case, the taxpayer was registered under the existing law but did not transit the Cenvat Credit of Rs. 48,35,335/- through TRAN-1 application but availed the same through GSTR-3B in the month of March-2020. It has been neatly stated in the para 7.3 of the said SCN that the impugned credit shall be availed through the TRAN-1 not through the GSTR-3B. The central Tax Audit authority has not questioned about the impugned the credit, rather it has been questioned about the way it has been availed.
- the SCN issued by the Ld. Central tax Audit department for availing impugned credit in the GSTR-3B. Due to technical glitches the Appellant was not able to avail the credit in the TRANS-1. Hence, he has filled the revised TRANS-1 for availing the credit. Without prejudice to above, the Ld. Officer has failed to notice that the impugned credit has not been rejected by the Central tax Audit department, it has been questioned, and the same is still on show cause stage till the filling of this present appeal.
- On 28.12.2022 Ld. Superintendent has issued a letter vide F. No. WS0801/ Piramal/Tran-1 & 2 /Verification/2022-23/"1695, asking us to submit us the clarification with regards to the credit availed in TRANS-1, in response to the same appellant has submitted a letter on 09.02.2023, vide ANNEXURE-3, in which appellant not only given the detailed clarification about each and every credit availed in TRANS-1 but also submitted supporting documents, to prove the claim. However, it seems that the Ld. adjudicating has not bothered to see the same and passed the order stating that "They did not submitted any documentary proof/ relevant Invoices on the basis of which credit of Rs. 48,35,335/-." Hence, the allegation of Ld. Adjudicating officer that the appellant has not submitted any documents to prove his claim is baseless and will not sustain.



- Further para 5 of the Circular 180 clearly states that the proper officer shall give an appropriate order thereon on merits after granting appropriate reasonable opportunity of being heard to the applicant; The Ld. adjudicating officer has neither passed the order on merits nor he has given proper opportunity of being heard to the appellant and making the impugned order bad in Law. On this sole ground the order rejecting the claim of transitional credit of Rs 48,35,335/- shall be set aside.
- The Ld. Superintendent has stated in his order that "Further they have wrongly claimed credit in Table 7(b) instead of Table 5(a). As stated in the above paras, the impugned credit of Rs. 48,35,335/- was originally pertaining to M/s ALPEX, however due to amalgamation of ALPEX with appellant, appellant is entitled to avail the credit. The appellant has tried to avail the credit in the column 5(a), but the system was not allowing to do so, the screen shot of the same submitted to the Ld. Superintendent, however, he has not considered the same;
- As the system is not allowing to submit the section in column 5(a), appellant has no choice to submit the same other than in the column 7(b). Appellant's hands were cuffed by the online system glitch, to follow the procedural protocol, but it does not take away the substantial rights of the appellant which is bestowed by the Law. In the erstwhile regime in the matter of, M/S Tide Water Oil Co. (India) Limited Versus Commissioner of Central Excise, Kolkata-II, 2019 (8) TMI 674 - CESTAT Kolkata, has held as under, which will mutatis mutandis apply in the present case;
- The Ld. Superintendent has failed to interpret the section 18(3) read with Rule 41 of the CGST Rules and thereby rejecting the additional claim of ITC claimed by filing revised TRANS-1;
- no filing of form ITC-02 may be treated as a procedural lapse and the appellant could not file the same as for filing the same, both the amalgamated company and amalgamating company must have active GST number on the GST portal in order to transfer the credit through ITC -02. However, in the present case, it is not so. Hence, the appellant has no option but to claim the said credit through TRANS-1 form which the appellant has validly claimed;
- that no opportunity of being heard has been provided to the appellant before rejecting the Carried forward claim of TRANS-1 as claimed in the revised TRANS-1 form which is mandatorily required to be given in terms of Circular No 180/12/2022-GsT dated 09.09.2022;



- that the whole purpose behind the issuance of a notice is to inform the person concerned of the grounds on which it is proposed to impose a penalty. Unless this information is clearly conveyed to the person concerned, he would not be in a position of making a proper representation against the proposed imposition of penalty. This, ipso facto, would amount to a denial of an opportunity of making a representation. Hence, such a notice would be improper and illegal and any adjudication order owing such notice would be bad law.

PERSONAL HEARING:

5. Personal Hearings in the matter were offered to the "Appellant" on 25.10.2023 and 09.11.2023. Shri Rohan Thakkar, C.A., Authorized Representative appeared in person on behalf of the appellant in the present appeal. During P.H. he has submitted that the credit available in ST-3 of the company M/s. Alpex Corporate Services & Merchandising Pvt. Ltd merged with the taxpayer and after NCLT approval; is available as per Section 18(3) of CGST Act. He further reiterated the written submissions and requested to allow appeal.

DISCUSSION AND FINDINGS:-

I have gone through the facts of the case, written submissions made by the 'appellant'. I find that the main issue to be decided in the instant case is whether the Input Tax Credit of Rs.48,35,335/- claimed under table 5(b) of new TRAN-1 is admissible or otherwise?

7(i). I find that appellant is mainly aggrieved with the denial of Transitional Credit of Rs.48,35,335/- which he claimed in Table No. 7(b) in Tran-1 by filing New TRAN-1 on 31.10.2022, in view of the guidelines issued by the CBIC for verification of the transitional credit in light of order of the Hon'ble Supreme Court, vide circular No.180/12/2022-GST dated 09.09.2022. The CBIC has opened the AIO portal for filing of TRAN-1 and TRAN-2 as per the procedure laid down in both the Circulars. Thus the facility for filing new TRAN-1/2 or revising the earlier filed TRAN1/2 on the common portal was provided to an appellant.

7(ii). Therefore, I find it pertinent to refer Section 140 (1) of the CGST Act, 2017, circular No.180/12/2022-GST dated 09.09.2022 & 182/14/2022-GST dated 10.11.2022 which is re-produced as under:

Section 140. Transitional arrangements for input tax credit.-

(1) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit [of eligible duties] carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law [within such time and] in such manner as may be prescribed:

Provided that the registered person shall not be allowed to take credit in the following circumstances, namely:-

(i) where the said amount of credit is not admissible as input tax credit under this Act; or

(ii) where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or

(iii) where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government.

CBIC vide Circular No.180/12/2022-GST dated 09-09-2022: The main

points pertain to this case are as under:

1. Goods and Service Tax Network (GSTN) is directed to open common portal of filing concerned forms for availing Transitional Credit through TRAN-1 and TRAN-2 for two months i.e. w.e.f. 01.09.2022 to 31.10.2022.

2.

3.

4. The concerned officers are given 90 days thereafter to verify the veracity of the claim/transitional credit and pass appropriate orders thereon on merits after granting appropriate reasonable opportunity to the parties concerned.

3. In accordance with the directions of Hon'ble Supreme Court, the facility for filing TRAN-1/ TRAN-2 or revising the earlier filed TRAN-1/TRAN-2 on the common portal by an aggrieved registered assessee (hereinafter referred to as the applicant) will be made available by GSTN during the period from 01.10.2022 to 30.11.2022. In order to ensure uniformity in implementation of the directions of Hon'ble Supreme Court, the Board in exercise of powers conferred under section 168(1) of the CGST Act, 2017 hereby clarifies the following:

4. Guidelines for the applicant for filing TRAN-1/TRAN-2 or revising earlier filed TRAN-1/TRAN-2:

4.1 to 4.5

4.6 It is pertinent to mention that the option of filing or revising TRAN-1/TRAN-2 on the common portal during the period from 01.10.2022 to

30.11.2022 is a one-time opportunity for the applicant to either file the said forms, if not filed earlier, or to revise the forms earlier filed. The applicant is required to take utmost care and precaution while filing or revising TRAN-1/TRAN-2 and thoroughly check the details before filing his claim on the common portal.

5. The declaration in FORM GST TRAN-1/TRAN-2 filed/revised by the applicant will be subjected to necessary verification by the concerned tax officers. The applicant may be required to produce the requisite documents/ records/ returns/ invoices in support of their claim of transitional credit before the concerned tax officers for verification of their claim. After the verification of the claim, the jurisdictional tax officer will pass an appropriate order thereon on merits after granting appropriate reasonable opportunity of being heard to the applicant. The transitional credit allowed as per the order passed by the jurisdictional tax officer will be reflected in the Electronic Credit Ledger of the applicant on the common portal.

CBIC vide Circular No.182/14/2022-GST dated 10-09-2022: The main points pertains to this case are as under:

1.2. Subsequently in Miscellaneous Application No. 1545-1546/2022 in SLP(C) No. 32709- 32710/2018, Hon'ble Supreme Court vide order dated 2nd September, 2022 has inter-alia ordered as follows:

"The time for opening the GST Common Portal is extended for a further period of four weeks from today. It is clarified that all questions of law decided by the respective High Courts concerning Section 140 of the Central Goods and Service Tax Act, 2017 read with the corresponding Rule/Notification or direction are kept open."

2. CHECKS FOR VERIFICATION OF ENTRIES IN TRAN-1 TABLE:

As a matter of assistance, following checks are suggested in relation to the entries provided in various tables of TRAN 1. The list of checks is not exhaustive but is indicative only based on provisions of law, the likely error and the inputs received from the field formations.

Checks for Table 5(a):

3.1.1 Check 1: Verify that the credit has been taken against closing balance of CENVAT credit in ER-1/2/3 or ST-3. Credit can be taken only where the last return was filed and credit taken in Table 5(a) should not be more than closing balance of credit in ER-1/2/3 or ST-3 minus the education / secondary education cess / KKC/ SBC.

3.1.2 Check 2: Credit of taxes not covered in the definition of eligible duties in section 140 cannot be availed. Example: Krishi Kalyan Cess, Education Cess, clean energy cess etc. Credit of VAT and PLA balance is not allowed as transitional credit.

3.1.3 Check 3: Check that returns have been filed for last 6 months. An assessee filing TRAN-1 and taking credit in table 5(a) should have -

- a) Filed ER-1 or ER-2 regularly between Jan, 2017 and June, 2017 or
- b) Filed ER-3 for period ending March, 2017 and June, 2017 or
- c) Filed ST-3 for period ending March, 2017 and June, 2017.

This check should be performed liberally where many units have merged into one registration or a single unit has been split into many (Centralized registration cases / LUT units) in GST. Compliance by any of the merging unit which was filing the returns in the pre-GST would entitle the new unit to avail credit in relation to that merging unit.

8(i). Further it is observed that in the pre-GST regime, the appellant was registered under the provisions of Service Tax and was holding the Registration bearing No.AAEC7137NSDOO1. Further, M/s Apex Corporate Services and Merchandising Private Limited (having Service Tax registration No. MHCA4052CSD001) was merged with appellant i.e. M/s Piramal Water Pvt Ltd in accordance with the Order dated 09.08.2017 of The National Company Law Tribunal, Mumbai Bench, Mumbai vide CSP No.448/2017 and 449/2017 effective from the appointed date i.e. 01.04.2016. For transition of the various tax credit admissible under the existing law to GST Regime, form GST TRAN-I was prescribed. During the course of audit, documents related to such transitional credit were called for verification. Upon scrutiny of the documents, appellant had availed the Cenvat credit amounting to Rs.48,35,335/- and CGST Head in the month of March-2020 through GSTR -3B which was the closing balance of Cenvat Credit of M/s Apex Corporate Services and Merchandising Private Limited (Service Tax registration No.AAHCA4052CSD001) as reflected in the ST-3 return for the period April, 2017 to June, 2017.

8(ii). In view of the above it is observed that in the instant case the appellant did not transit the Cenvat Credit of Rs.48,35,335/- through TRAN-1 application but availed the same through GSTR-3B in the month of March-2020. The manner prescribed to carry forward this credit by the appellant under the existing law is prescribed under section 140 of CGST Act, 2017. Accordingly, the appellant was entitled to carry forward the admissible credit reflected in their return on the appointed date i.e. 30.06.2017 and such Central Tax credit to be carry forward and be shown in table 5(a) of Tran-1 subject to the same credit is reflecting as closing balance of the concerned return of the Central Excise and Service Tax as on 30.06.2017. However, in the instant case, though the credit of Rs.48,35,335/- was reflecting in the ST-3 return but the appellant did not transited the same through TRAN-1 application. Hence, the taxpayer has wrongly transited the Cenvat Credit into GST Regime through GSTR-3B and thus contravened the provision of Section

140 of the CGST Act. Therefore, the Cenvat credit under the existing law is not permissible for availment through GSTR3-B return.

9. Further it is observed that department has issued letter to appellant for verification of Tran-1/2 and to ascertain the veracity of the transitional credit taken by him and requested to submit all the relevant documents on the basis of which they have taken ITC in their Tran-1 & 2 form. However, it is observed that the appellant has not submitted any documentary proof/relevant invoice on the basis of which credit of Rs. 48,35,335/- pertaining to acquired company has been taken by them. Further, the appellant has no evidence put forth on record that they have submitted documentary proof/relevant invoice on the basis of which they have availed the credit.

10(i). Further it is observed that the appellant had filed the revised Tran-1 application on 31.10.2022 in Table 7(b) and claimed Rs. 48,35,335/- for the cenvat balance to be carried forwarded from ST-3 return of Service Tax Registration No. AAHCA4052CSD001 of M/s Alpex Corporate Services and Merchandising Private Limited (as merged with M/s. Parimal Water Pvt Ltd i.e. appellant), in view of the guidelines issued by the CBIC for verification of the transitional credit in light of order of the Hon'ble Supreme Court, vide circular No.180/12/2022-GST dated 09.09.2022 & 182/14/2022-GST dated 10.11.2022. However, I find that after verification of the genuineness of the credit claimed in the New Tran-1 by the range Superintendent, it has been found that the appellant has wrongly filed the revised Tran-1 application on 31.10.2022 in Table 7(b) as the same has to be filed in Table 5(a).

10(ii). As per CBIC vide Circular No.182/14/2022-GST dated 10-09-2022 Checks for Table 5(a) of 3.1.1 Check 1, it has been clearly mentioned that the credit has been taken against closing balance of CENVAT credit in ER-1/2/3 or ST-3. Credit can be taken only where the last return was filed and credit taken in Table 5(a) should not be more than closing balance of credit in ER-1/2/3 or ST-3 minus the education / secondary education cess / KKC/ SBC. However in the instant case I find that the appellant has claimed credit of Rs. 48,35,335/- in table 7(b) in place of Table 5(a). of the closing balance of credit in ST-3 return filed for the period April 2017 to June 2017. Further it is observed that the appellant has not filed ITC-02 for apportionment of ITC in cases of business re-organization under Section 18(3) of CGST Act, read with Rule 41(1) of CGST Rules.

11. In view of the foregoing facts & discussion and in terms of Section 140 of the CGST Act, 2017 and Circular No circular No.180/12/2022-GST dated 09.09.2022 & 182/14/2022-GST dated 10.11.2022, I do not find any infirmity in the impugned order passed by the adjudicating authority and the impugned O-I-O is upheld being legal and proper.

अपीलकर्ताद्वारा दर्ज की गई अपीलकानिपटाराउपरोक्ततरीकेसेकियाजाताहै।

The appeal filed by the "Appellant" stands disposed of in above terms.

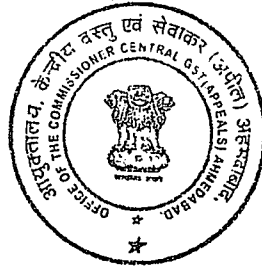
(Handwritten Signature)
29/11/2023

(Adesh Kumar Jain)

Joint Commissioner (Appeals)
Date: 29.11.2023

Attested

(Handwritten Signature)
(Sandheer Kumar)
Superintendent (Appeals)
Central Tax, Ahmedabad



By R.P.A.D.

To,

M/s Parimal Water Private Ltd,
Office No. 705-709, Dev Aurum,
Anand Nagar Char Rasta, Prahlad Nagar Road,
Ahmedabad 380 015.

Copy to:

1. The Principal Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner, CGST & C. Excise, Appeals, Ahmedabad.
3. The Pr. Commissioner, CGST & C.Ex, Ahmedabad-South Commissionerate.
4. The Dy / Assistant Commissioner, CGST & C.Ex, Division-VIII, Ahmedabad-South Commissionerate.
5. The Superintendent, CGST & C.Ex. AR-I, Division-VIII, Ahmedabad-South Commissionerate.
6. The Superintendent (Systems), CGST & C.Ex. Appeals, Ahmedabad, for Publication of the OIA on website.
7. Guard File/ P.A. File.

