



सत्यमेव जयते

आयुक्तकाकार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeal Ahmedabad Commissionerate
जीएसटी भवन, राजस्व मार्ग, अम्बावाडी अहमदाबाद ३८००१५.
GST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015
Phone: 079-26305065 Fax: 079-26305136
E-Mail : commrappl1-cexamd@nic.in



By Regd. Post

DIN NO.: 20240164SW000000BF9D

(क)	फ़ाइल संख्या / File No.	GAPPL/ADC/GSTP/3458/2023/usi-56
(ख)	अपील आदेश संख्या और दिनांक / Order-In - Appeal and date	AHM-CGST-001-APP-JC-205/2023-24 and 04.01.2024
(ग)	पारित किया गया / Passed By	श्री आदेश कुमार जैन, संयुक्त आयुक्त (अपील) Shri Adesh Kumar Jain, Joint Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of Issue	05.01.2024
(ङ)	Arising out of Order-In-Original No. ZJ2408230049512 dated 02.08.2023 passed by The Assistant Commissioner, CGST Div-V- Odhav, Ahmedabad South.	
	Name of the Appellant	Name of the Respondent
(च)	M/s Microtrack Surgicals, A - 38, Adarsh Industrial Estae - II, Ashish Cinema, Odhav, Ahmedabad, Gujarat, 382415	The Assistant Commissioner, CGST Div-V- Odhav, 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.
	Appeal to be filed before Appellate Tribunal under Section 112(8) of the CGST Act, 2017 after paying -
(i)	(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 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. Microtrack Surgicals, A-38, Adarsh Industrial Estate-II, Ashish Cinema, Odhav, Ahmedabad, Gujarat – 382415 (hereinafter referred as '**Appellant**') has filed the present appeal against the Order No. ZJ2408230049512 dated 03.08.2023 (hereinafter referred as '**impugned order**') passed by the Assistant Commissioner, CGST, Division – V (Odhav), Ahmedabad South (hereinafter referred as '**Adjudicating Authority**').

2(i). Briefly stated the facts of the case is that the 'Appellant' is holding GST Registration - GSTIN No.24AAFFM3896H1Z1 had earlier filed the appeal on 06.05.2022. The 'Appellant' had filed refund application on account of "Refund of ITC on Export of Goods & Services without Payment of Tax" vide ARN No. AA240820017402T dated 07.08.2020 for amount of Rs.4,97,544/- (C. Tax Rs.2,48,772/- + S. Tax Rs.2,48,772/-) for the period from June 2018 to March 2019. Thereafter, the adjudicating authority has sanctioned Refund of Rs. 50,858/- and rejected the refund claim of Rs.4,46,686/- vide Order- in-Original dated 12.11.2020.

2(ii). Being aggrieved with the order dated 12.11.2020, the appellant had filed the appeal on 06.05.2022, for the period June 2018 to March 2019 Refund of ITC on Export of Goods without payment of Tax for amount of Rs.4,97,544/-. Accordingly, the Additional Commissioner (Appeals), CGST, Ahmedabad had passed order No. AHM-CGST-001-APP-ADC-238/2022-23, dated 21.02.2023 and set aside the order dated 12.11.2020, passed by the adjudicating authority and allow appeal of the "Appellant" without going into merit of all other aspects and direct the appropriate authority to verify the claim, as mentioned in appeal memorandum dated 06.05.2022 of the appellant, in terms of Section 54 of the CGST Act, 2017 read with Rule 89 of the CGST Rules, 2017.

3. In view of the order No. AHM-CGST-001-APP-ADC-238/2022-23, dated 21.02.2023, the adjudicating authority has passed the Order-in-Original dated 03.08.2023 and sanctioned the refund amount of Rs. 4,45,248/- and stated that there is nothing mentioned regarding interest on refund amount in appeal order, interest cannot be given. Being aggrieved with the *impugned order* dated 03.08.2023 the '**Appellant**' has filed the present appeal online on 01.09.2023 on the following grounds:



- The adjudicating authority has rejected our interest refund application on the ground that appeal order not clearly mentioned interest in order passed by the Additional Commissioner;
- That the order is against the principle of natural justice and legal provisions and due to dissatisfaction with order we filed an appeal;
- That we have provided all relevant documents and submissions of Section 54 with interest calculation still Assistant Commissioner of CGST, Range-V, CGST not agreed with interest claimed in refund application and passed impugned order by disallowing interest;
- They further coated provisions of Section 54 and Section 56 of the CGST Act, 2017-
 - (i) Tax paid becomes refundable under section 54(5) of CGST Act, 2017 to the applicant;
 - (ii) It is not refunded within 60 days from the date of receipt of application for refund of tax under Section 54(1) of the CGST Act, 2017.
 - (iii) Further, section 56 of CGST Act 2017, provides for interest on delayed refunds. Accordingly, if any tax ordered to be refunded under sub-section (5) of section 54 to any applicant is not refunded within sixty days from the date of receipt of application under subsection (1) of that section, interest at such rate not exceeding six per cent as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax.

In view of the above the appellant has requested to approve refund of interest.

Personal Hearing:

4. Personal Hearing in the matter was fixed/held on 08.12.2023 and 14.12.2023 wherein Mr. Sanjay S. Patel, Advocate, appeared on behalf of the 'Appellant' as authorized representative. During P.H. he has stated that refund is sanctioned on the basis of Appellate Authority order but interest as per Section 56 has not been granted by the Ld. Adjudicating Authority. In view of provisions of section 56, interest should also be paid. He further reiterated the written submissions and requested to allow appeal.



Discussion and Findings :

4(i). I have carefully gone through the facts of the case available on records, submissions made by the 'Appellant' in the Appeals Memorandum. In the instant case it is observed that the 'Appellant' had filed refund application on account of "Refund of ITC on Export of Goods & Services without Payment of Tax" vide ARN No. AA240820017402T dated 07.08.2020 for amount of Rs.4,97,544/- (C. Tax Rs.2,48,772/- + S. Tax Rs.2,48,772/-) for the period from June 2018 to March 2019. Thereafter, the adjudicating authority had sanctioned Refund of Rs. 50,858/- and rejected the refund claim of Rs.4,46,686/- vide Order- in- Original dated 12.11.2020. Being aggrieved with the order dated 12.11.2020, the appellant had filed the appeal on 06.05.2022. Accordingly, the Additional Commissioner (Appeals), CGST, Ahmedabad had passed order No. AHM-CGST-001-APP-ADC-238/2022-23, dated 21.02.2023 and set aside the order dated 12.11.2020 passed by the adjudicating authority and allow appeal of the "Appellant" without going into merit of all other aspects and direct the appropriate authority to verify the claim, as mentioned in appeal memorandum dated 06.05.2022 of the appellant, in terms of Section 54 of the CGST Act, 2017 read with Rule 89 of the CGST Rules, 2017.

4(ii). In view of the above the order No. AHM-CGST-001-APP-ADC-238/2022-23, dated 21.02.2023 passed by the Additional Commissioner (Appeals), CGST, Ahmedabad, the adjudicating authority has passed the impugned Order dated 03.08.2023 and sanctioned the refund amount of Rs. 4,45,248/- and stated that there is nothing mentioned regarding interest on refund amount in appeal order, interest cannot be given. Being aggrieved with the *impugned order* dated 03.08.2023 the 'Appellant' again filed the present appeal online on 01.09.2023 requested to approve refund of interest.

5(i). In view of the above, it is observed that the Additional Commissioner (Appeals), CGST, Ahmedabad had passed order No. AHM-CGST-001-APP-ADC-238/2022-23 on 21.02.2023 and set aside the order dated 12.11.2020 passed by the adjudicating authority and allow appeal of the "Appellant" without going into merit of all other aspects and direct the appropriate authority to verify the claim, as mentioned in appeal memorandum dated 06.05.2022 of the appellant, in terms of Section 54 of the CGST Act, 2017 read with Rule 89 of the CGST Rules, 2017.

5(ii). In the appeal filed by the appellant on 06.05.2022 before the Additional Commissioner (Appeals), CGST, Ahmedabad, the appellant had pray for relief, to sanction refund amount with appropriate interest. However, in the instant case the appellant has sanctioned the refund amount of Rs. 4,45,248/-

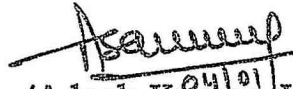


vide impugned order but stated that there is nothing mentioned regarding interest on refund amount in appeal order, interest cannot be given. However, in the said case the appellate authority vide order No. AHM-CGST-001-APP-ADC-238/2022-23 on 21.02.2023 has already set aside the order dated 12.11.2020 and direct the appropriate authority to verify the claim, as mentioned in appeal memorandum dated 06.05.2022 of the appellant, in terms of Section 54 of the CGST Act, 2017 read with Rule 89 of the CGST Rules, 2017.

6. In view of above discussions, it is observed that the refund amount of Rs. 4,45,248/- sanctioned by the *adjudicating authority* under Section 54 but no interest is sanctioned which is consequential as per Section 56 of the CGST Act. Therefore in respect of interest on refund amount, I allow the appeal as the "Appellant" is eligible for interest under Section 56 of the CGST Act, 2017. The 'Appellant' is directed to submit all relevant documents/submission before the *adjudicating authority* for verification of the facts, who shall verify the facts as directed above and pass order accordingly.

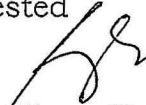
अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

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


(Adesh Kumar Jain)
Joint Commissioner (Appeals)

Date: 04.01.2024

Attested


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

By R.P.A.D.

To,
M/s. Microtrack Surgicals,
A-38, Adarsh Industrial Estate-II,
Ashish Cinema, Odhav, Ahmedabad,
Gujarat - 382415.

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/Asstt. Commissioner, CGST, Division-V (Odhav), Ahmedabad South.
5. The Superintendent (Systems), CGST Appeals, Ahmedabad.
6. Guard File.
7. P.A. File.



