



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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DIN- 20230664SW0000333FF8

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/815/2023 -APPEAL / 2037 -k2

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-38/2023-24**

दिनांक Date : **31-05-2023** जारी करने की तारीख Date of Issue : **31-05-2023**

श्री मिहिर रायका_अपर आयुक्त (अपील) द्वारा पारित

Passed by Shri. Mihir Rayka, Additional Commissioner (Appeals)

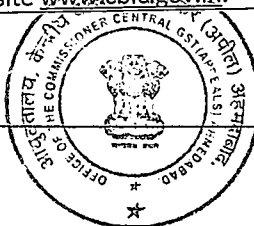
ग Arising out of Order-in-Original No. **ZF24112200025803 DT. 02.11.2022**

issued by The Assistant Commissioner, CGST, Division-V, Ahmedabad South

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

**Rajesh Kumar Vedraj Jain of M/s. Kushum Enterprise,7,
Rajeshwari Ind Estate, Nr. Ambica Nagar, Odhav, Ahmedabad-382415**

(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**Brief Facts of the Case :**

M/s. Kushum Enterprise (Legal Name – Rajeshkumar Vedraj Jain), 7, Rajeshwari Ind. Estate, Nr. Ambica Nagar, Odhav, Ahmedabad – 382.415 (hereinafter referred as '**Appellant**') has filed the present appeal against the Order in the form RFD-06 bearing No. ZF2411220025803 dated 02.11.2022 (hereinafter referred as '**Impugned Order**') passed by the Assistant Commissioner, CGST, Division – V, 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. 24AGZPJ2725L1ZW had filed the refund application under category "*Refund on account of ITC accumulated due to Inverted Tax Structure*" on dated 14.09.2022 for Rs.3,04,304/- for the period of August 2021 to October 2021. In response to said refund application a "*Notice for rejection of application for refund*" was issued in FORM-GST-RFD-08 dated 21.10.2022 to the '**Appellant**' wherein, it was proposed that refund applications is liable to be rejected for the reasons "*Other*" with Remark as "*As the Adjusted Total turnover and turnover of inverted rated supply are incorrect, SCN issued*". In response to said SCN the **Appellant** has filed their reply vide RFD-09 dated 31.10.2022. Thereafter, the '**Adjudicating Authority**' has passed the order as under :

"the refund claim filed by M/s. RAJESHKUMAR VEDRAJ JAIN is found to be in order and accordingly refund of Rs.3,04,304/- is sanctioned and RFD-06 is being issued on AIO"

In view of above, the adjudicating authority has sanctioned the refund to appellant. However, as per the Refund ARN – AA240922040930F status available on GST Portal it shows as '**Refund Rejected in RFD-06 – ZF2411220025803 Date – 02.11.2022**'.

2(ii). Accordingly, being aggrieved, the '**Appellant**' has filed the present appeal on dated 03.02.2023 on the following grounds :

1. In the refund Order, the adjudicating authority clearly mentioned that the Appellant is eligible for the refund and throughout the order copy, they nowhere mentioned that the refund is ineligible.
2. The wordings of the final Sanction order issued by the Adjudicating Authority is as below :

In view of the above, the refund claim filed by M/s. RAJESHKUMAR VEDRAJ JAIN is found to be in order and accordingly refund of



Rs.3,04,304/- (Three Lakh Four Thousand Three Hundred Four only) is sanctioned and RFD-06 is being issued on AIO

3. Still the refund got rejected. Also in the portal the status of Refund is showing as "Rejected".
4. Accordingly, they filed this appeal not on any legal ground as nothing is mentioned by the adjudicating authority in the refund sanction order. As already mentioned it seems that there is some technical error or glitch.

In view of above submissions the appellant has made prayer to allow the appeal for disbursing the refund amount.

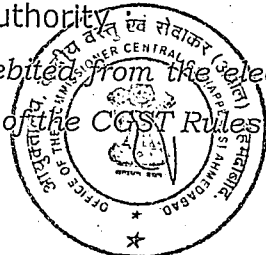
3. Personal Hearing in the matter was held on 10.05.2023 wherein Mr. Ashvin Joshi appeared on behalf of the 'Appellant' as authorized representative and stated that they have nothing more to add to their written submissions till date.

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. I find that the Appellant has filed refund application for refund of Rs.3,04,304/- under category "Refund on account of ITC accumulated due to Inverted Tax Structure" for the period of August 2021 to October 2021 and in this regard a SCN was issued to the Appellant, proposes rejection of refund on the ground of "Adjusted Total Turnover and Turnover of Inverted Rated Supply as incorrect". Further, I find that the appellant has submitted his reply to SCN vide RFD-09 dated 31.10.2022. Ongoing through the copy of refund sanctioning order I am of the view that the adjudicating authority has sanctioned the refund claim of Rs.3,04,304/- to the appellant. However, as the status of subject Refund ARN on GST Portal shows as rejected, I am of the view that any technical error or glitch may be occurred while issuing RFD-06 on AIO by the Adjudicating Authority.

4(ii). In view of above facts, I find that as per the impugned order the refund claim is sanctioned to the appellant but as per status available on GST Portal it shows as rejected. Accordingly, the refund amount has not been disbursed to the appellant. Further, I find that during the verification of subject refund application, following observation have also been noticed by the adjudicating authority.

1. The refund amount claimed has been debited from the electronic credit ledger, in terms of sub-rule (3) of Rule 89 of the CGST Rules



2. The calculation given by the applicant of inverted turnover, adjusted aggregate turnover, as applicable, is correct as per the relevant provisions.
3. Calculation of Net ITC is correct as per the relevant provisions.
4. On the basis of Annexure B of invoices, on the basis of which ITC accrued, the admissibility of the ITC has been verified and found admissible.
5. It has been verified that ITC on input services and capital goods has not been included in the calculation of Net ITC for refund of ITC in zero rated supplies.
6. Further, I find that a Show Cause Notice dated 21.10.2022 has been issued to the claimant for the adjusted total turnover and turnover of inverted rated supply are incorrect and Personal Hearing was fixed on 25.10.2022. The claimant replied to the SCN on 31.10.2022 but nobody turned for P.H.
7. The claimant vide his reply (RFD-09) dated 31.10.2022, replied that kindly issue the refund as per department calculation.
8. The refund has been restricted to the ITC as per those invoices, details of which are uploaded by the supplier in FORM GSTR-1 and are reflected in FORM GSTR-2A of the applicant in terms of Circular No. 135/05/2020-GST dated 31.03.2020.
9. The refund is not barred under the provisions of 2nd and 3rd proviso to Section 54 of the CGST Act, 2017.
10. Details of computation of refund claim amount and the admissible amount is tabulated as under

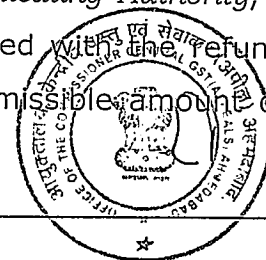
Calculation As per the original refund claim filed by the claimant

Turnover of inverted supply of goods (1)	of rated supply of goods (2)	Tax payable on such inverted supply of goods (2)	Adjusted total turnover (3)	Net Input Tax Credit (4)	Maximum refund amount to be claimed (5) [(1*4)/3-2]
40,40,904		4,84,908	40,40,904	7,89,212	3,04,304

Calculation after verification of Data available and documents submitted by the claimant

Turnover of inverted supply of goods (1)	of rated supply of goods (2)	Tax payable on such inverted supply of goods (2)	Adjusted total turnover (3)	Net Input Tax Credit (4)	Maximum refund amount to be claimed (5) [(1*4)/3-2]	Refund amount claimed	Refund amount sanctioned
39,87,074		4,78,448	40,11,985	7,89,212	3,05,863	3,04,304	3,04,304

5. In view of above observation of the Adjudicating Authority, I am of the view that the Adjudicating Authority is agreed with the refund application and accordingly, he has computed the admissible amount of



refund as Rs.3,04,304/- . Therefore, I am of the considerate view that for any technical error or technical glitch the claimant should not suffer and after examining the refund application, once refund amount found admissible, it should be sanctioned and disbursed to the claimant. Accordingly, looking to the facts and circumstances mentioned as above, I am the view that the appeal filed by the *appellant* is found to be in order and thus requires to be allowed. Needless to say, since nothing adverse has been observed by the *adjudicating authority* as can be seen in the copy of *impugned order* produced by the *appellant*, the admissibility of refund on merit is not examined in this proceeding. Therefore, any claim of refund filed in consequence to this Order may be examined by the appropriate authority for its admissibility on merit in accordance with the provisions of the CGST Act, 2017 and Rules made thereunder.

6. In view of above discussions, I hereby allow the appeal of the "*Appellant*" without going into merit of all other aspects, which are required to be complied by the claimant in terms of provisions of the CGST Act, 2017 and Rules made thereunder.

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

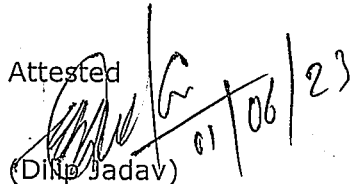
The appeal filed by the appellant stands disposed of in above terms.


(Mihir Rayka)

Additional Commissioner (Appeals)

Date: 31.05.2023

Attested


(Dinku Jadav)

Superintendent (Appeals)

By R.P.A.D.

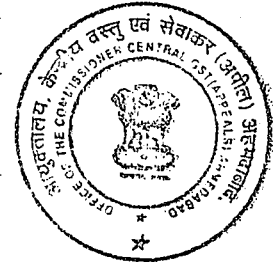
To,

M/s. Kushum Enterprise

(Legal Name - Rajeshkumar Vedraj Jain),

7, Rajeshwari Ind. Estate, Nr. Ambica Nagar,

Odhav, Ahmedabad - 382 415



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, Ahmedabad South.
5. The Superintendent (Systems), CGST Appeals, Ahmedabad.
6. Guard File.
7. P.A. File

