



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- 20230764SW000000A66A

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTD/1, 23, 24, 137 & 138/2023 -APPEAL /3133 -38

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-JC-54 to 58/2023-24**
दिनांक Date : **14-07-2023** जारी करने की तारीख Date of Issue : **14-07-2023**

श्री आदेश कुमार जैन संयुक्त आयुक्त (अपील) द्वारा पारित

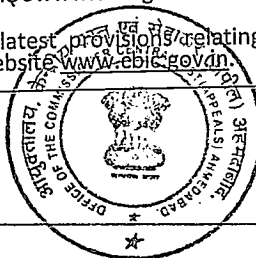
Passed by Shri. Adesh Kumar Jain, Joint Commissioner (Appeals)

ग Arising out of Order-in-Original No. **ZZ2406220236808 DT. 02.06.2022,**
ZR2407220356554 DT. 26.07.2022, ZY2407220274421 DT. 20.07.2022,
ZK2409220153323 DT. 12.09.2022 & ZJ2409220152312 DT. 12.09.2022 issued by The
Assistant Commissioner, CGST, Division-VIII, Ahmedabad South

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

Appellant	Respondent
The Assistant Commissioner, CGST, Division-VIII, Ahmedabad South	M/s. U Square Life Science Pvt. Ltd. A-1101, A-1102, A-1103, Solitaire Corporate Park, Beside Divya Bhaskar Press, S.G. Highway, Sarkhej-380051

(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 .

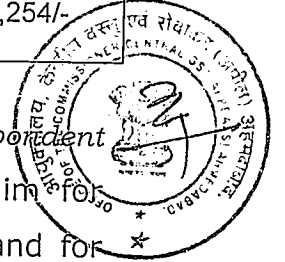


ORDER IN APPEAL**Brief Facts of the Case :**

The Assistant Commissioner, CGST, Division VIII, Ahmedabad South (hereinafter referred to as the '*Appellant/Department*') has filed following five appeals, offline in terms of Advisory NO.9/2020 dated 24-9-2020 issued by the Additional Director General (Systems), Bangaluru against RFD-06 Orders (hereinafter referred to as the '*Impugned Orders*') passed by the Assistant Commissioner, CGST, Division VIII, Ahmedabad South (hereinafter referred to as the '*Adjudicating Authority*') sanctioning refunds to **M/s. U Square Life Science Private Limited** A 1101, A 1102, A 1103, Solitaire Corporate Park, Beside Divya Bhaskar Press, SG Highway, Sarkhej, Ahmedabad 380 051 (hereinafter referred to as the '*Respondent*').

Sr. No.	Appeal No. & Date	RFD-06 Order No. & Date	Amount of Refund Sanctioned
1	GAPPL/ADC/GSTD/1/2023 Dated 09.12.2022	ZZ2406220236808 Dated 02.06.2022	Rs.76,95,320/-
2	GAPPL/ADC/GSTD/23/2023 Dated 24.01.2023	ZR2407220356554 Dated 26.07.2022	Rs.10,42,735/-
3	GAPPL/ADC/GSTD/24/2023 Dated 17.01.2023	ZY2407220274421 Dated 20.07.2022	Rs.14,77,264/-
4	GAPPL/ADC/GSTD/137/2023 Dated 07.03.2023	ZK2409220153323 Dated 12.09.2022	Rs.58,16,082/-
5	GAPPL/ADC/GSTD/138/2023 Dated 07.03.2023	ZJ2409220152312 Dated 12.09.2022	Rs.10,51,254/-

2. Briefly stated the fact of the case is that the *respondent* registered under GSTIN 24AAACU8986A1Z9 has filed refund claim for Rs.76,95,320/-, Rs.10,42,735/-, Rs.14,77,264/-, Rs.58,16,082/- and for Rs.10,51,254/- for refund of ITC accumulated due to export without payment of duty under Section 54 (3) of CGST Act, 2017 for the month of Jan.'2022 To March 2022, May'2022, April'2022, July'2022 and June'2022 respectively. After verification of refund claims, the *adjudicating authority* vide *impugned orders* has sanctioned refund to the *Respondent*. However, during review of refund claims it was observed by the *Department* that the Adjusted Total Turnover of supply taken is not as per the GSTR 3B ; that while calculating Adjusted Turnover the *Adjudicating Authority* has taken FOB Value, which is lower than Invoice Value, however, the same should be Invoice Value instead of FOB Value as the same is higher than FOB Value ; that 'Adjusted Total Turnover' in Rule 89(4) has been defined under sub-section (112) of Section 2 of the CGST Act, 2017, that the



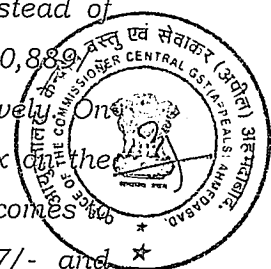
Invoice Value is applicable for calculating Adjusted Turnover and not FOB Value.

Thus taking the higher value of Adjusted Total Turnover from GSTR 3B, applying the formulae for refund of export without payment of tax, the admissible refund comes to less than the refund sanctioned by the sanctioning authority and thus there is excess sanction of refund to the Respondent which is required to be recovered along with interest. The details are as under :

Month	Turnover of Zero Rated Supply (1)	Adjusted Total Turnover of Supply as per GSTR-3B (2)	Net ITC (3)	Refund Amount Sanctioned	Refund Amount Admissible (1*3/2)	Excess Refund Amount Sanctioned
Jan'22 to March'22	9,21,30,707	10,23,25,495	77,89,495	76,95,320	70,13,420	6,81,900
May'22	40,75,014	46,70,889	10,43,470	10,42,735	9,10,352	1,32,383
April'22	84,08,412	91,27,454	14,77,664	14,77,264	13,61,257	1,16,407
July'22	6,02,46,366	6,14,51,120	58,35,696	58,16,082	57,21,287	94,795
June'22	80,25,605	85,62,013	10,51,338	10,51,254	9,85,472	65,782

3. In view of above, the *appellant/department* has filed the present appeals on following grounds :

- *The adjudicating authority has considered wrong value of Rs.9,26,55,469/-, Rs.40,75,014/-, Rs.84,08,412/-, Rs.6,03,67,960/- and Rs.80,26,236/- as Adjusted Total Turnover of supply instead of correct Adjusted Total Turnover of Rs.10,23,25,495/-, Rs.46,70,889/-, Rs.91,27,454/-, Rs.6,14,51,120/- and Rs.85,62,013/- respectively. On applying formulae for refund of export without payment of tax on the correct value of Adjusted Total Turnover, the refund admissible comes Rs.70,13,420/-, Rs.9,10,352/-, Rs.13,61,257/-, Rs.57,21,287/- and Rs.9,85,472/- instead of Rs.76,95,320/-, Rs.10,42,735/-, Rs.14,77,264/-, Rs.58,16,082/- and Rs.10,51,254/- respectively which have been sanctioned by the sanctioning authority. Thus, there is excess sanction of refunds of Rs.6,81,900/-, Rs.1,32,383/-, Rs.1,16,407/-, Rs.94,795/- and Rs.65,782/- to the claimant which are required to be recovered along with interest.*
- *While calculating Adjusted turnover in refund claims of ITC accumulated due to export of goods/services without payment of tax, the Adjudicating Authority has taken FOB Value, which is lower than Invoice Value, however, the same should be Invoice Value instead of FOB Value as the same is higher than FOB Value. Also as per Rule 89(4) has been defined under sub-section (112) of Section 2 of CGST Act, 2017, the Invoice Value is applicable for calculating Adjusted turnover and not FOB Value.*



Sub-rule (4) of Rule 89 prescribes the formula for computing the refund of unutilized 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 “

- Adjusted Total Turnover has been defined in clause (E) of sub-rule (4) of Rule 89 as under :

“Adjusted Total Turnover” means sum total of the value of –

- (a) **the turnover in a State or a Union territory, as defined under clause (112) of Section 2, excluding the turnover of services;**

“Turnover in State or turnover in Union territory” means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes Central Tax, State Tax, Union territory Tax, Integrated Tax and Cess”.

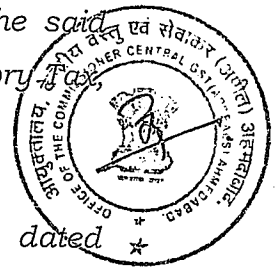
- Further, para 8 of Notification No. 14/2022 – Central Tax dated 05.07.2022, in Rule 89, (c) in sub-rule (4) has been amended where the following Explanation has been inserted, namely :

- Explanation. – For the purposes of this sub-rule, the value of goods exported out of India shall be taken as –

(i) the Free on Board (FOB) value declared in the Shipping Bill or Bill of Export form, as the case may be, as per the Shipping Bill and Bill of Export (Forms) Regulations, 2017; or

(ii) the value declared in tax invoice or bill of supply, whichever is less.

In view of above, the appellant/department prayed to set aside the impugned orders and to pass orders directing the original authority to demand and recover the amount erroneously refunded to the respondent and to pass any other orders as deem fit in the interest of justice.



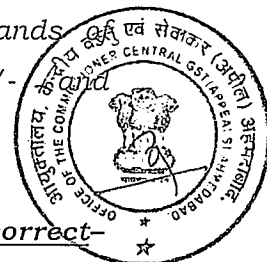
4. The Respondent filed cross objections on dated 27.06.2023 wherein they *inter-alia* contended as under :

- i. They have considered the FOB Value as mentioned in the shipping bills as the value of zero rated supplies being the same is lower than the transaction value of the zero rated supplies and the same is in consonance with para 47 of the Board Circular No. 125/44/2019-GST dated 18.11.2019.
- ii. Ld. Adjudicating Authority has granted refund amounting to Rs.76,95,320/-, Rs.10,42,735/-, Rs.14,77,264/-, Rs.58,16,082/- and Rs.10,51,254/- vide Order-In-Original issued in Form RFD-06 Orders based on statutory formula prescribed under Rule 89 of the CGST Rules/SGST Rules.
- iii. Department has now filed appeals against the aforesaid refund orders on the ground that during the processing of refund claims, while calculating Adjusted Total Turnover, the Adjudicating Authority has taken the FOB Value instead of Invoice Value.
- iv. Department has computed the refund amount considering the FOB value of exports in numerator and transaction value of exports declared in GST returns in denominator and arrived at revised refund amount which less than the refund sanctioned. Accordingly, raised demands Rs.6,81,900/-, Rs.1,32,383/-, Rs.1,16,407/-, Rs.94,795/- and Rs.65,782/- considering the same as excess refunds granted.

Submissions on Merits

Method of computation of refund under Appeals are incorrect-

- i. Ground taken in appeal is without considering the formula given under Rule 89 of the CGST Rules, 2017.
- ii. An explanation has been inserted to Rule 89(4) vide Notification No. 14/2022-CT dated 05.07.2022 wherein it has been made amply clear that for the purpose of Rule 89(4), the value of goods exported out of India i.e. Zero rated supply of goods should be considered as FOB Value as per Shipping Bill or Value declared in Tax Invoice whichever is less.
- iii. Referred Adjusted Total Turnover as defined under Rule 89(4) of the CGST Rules read with Section 2(112) of the CGST Act and submitted that Adjusted Total Turnover is summation of the following
 - Taxable Supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis)
 - Export of goods or services or both
 - Inter-State supplies of goods or services or both



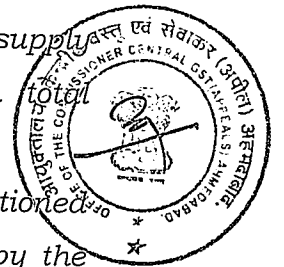
- iv. In view of above, the value of goods exported out of India for computing the adjusted total turnover is to be considered as per the newly inserted explanation i.e. FOB value as declared in shipping bill or value declared in tax invoice, which is less.
- v. They wish to submit that by analyzing the newly inserted explanation to Rule 89(4), the intention of the law maker is getting clarified that the value of zero rated supply in numerator and denominator should be same as arrived at as per Rule 89(4).
- vi. Further, Ld. Appellant has not taken into consideration the Circular No. 147/03/2021-GST dated 12.03.2021 for computing the adjusted total turnover. Referred para 4.6 of said Circular.
- vii. In view of above Circular the computation done by Ld. Appellant considering FOB Value in numerator and transaction value in denominator is completely incorrect and not proper.

Issue is already settled -

- viii. Without prejudice to above submissions Respondent humbly wish to submit that the issue of method of computation of adjusted total turnover has already been settled by the Appellate Authority in their own matter having OIA No. AHM-CGST-001-APP-ADC-156/2021-22 dated 28.03.2022 and AHM-CGST-001-APP-ADC-207/2022-23 dated 06.01.2023 wherein it has been held that value of zero-rated supply at numerator and turnover value of zero-rated supply in total adjusted turnover at denominator will be same.
- ix. Further, appeal filed by department against the refund sanctioned for month of March'21 and April'21 has also been rejected by the Appellate Authority vide OIO-AHM-CGST-001-APP-ADC-118/2022-23 dated 08.09.2022.

Referred following case laws -

- Union of India Vs. Raghuvir Sing (AIR 1989 SC 1933)
- Pradip Chandra Parija Vs. Pramod Chandra Patnaik [2002 (144) ELT 7(SC)]
- Pacific Organics Pvt. Ltd. Vs. Commissioner of C. Ex., Thane [2007 (216) ELT 306] (Tri.-Mumbai)]
- Rolex Processors (P) Ltd. Vs. Textile Committee [2010 (257) ELT 92 (Del.)]
- Johnson & Johnson Ltd. Vs. Commissioner of C. Ex., Mumbai-I [2016 (335) ELT 163 (Tri.-Mumbai)]
- State of Kerala Vs. Kurian Abraham Private Limited [2009 (16) STR 210 (SC)], Hon'ble Supreme Court has held that it is not open to officers administering the law working under Board of Revenue to say that said Circular is not binding on them.



In view of above submissions the *respondent* prayed to upheld the OIOs passed by the *adjudicating authority* ; to compute refund amount on the basis of statutory formula prescribed under Rule 89 ; refund should be computed on the basis of FOB value, the value of export/zero rated supply of goods to be included while calculating 'adjusted total turnover' will be same as being determined as per newly inserted explanation to Rule 89 (4) ; Refund claims by *Respondent* is correct and should be approved and demand of interest should also be dropped as the refund claimed by the *Respondent* is correct.

5. Personal hearing was held on dated 28.06.2023, wherein Shri Gopal Krishna Laddha, CA, Ms. Anjali Bhatia, CA and Mr. Dhaval Bavishi, Manager appeared on behalf of the Respondent as authorised representatives. During PH they stated that similar issue is already decided in their favour vide OIA No. AHM-CGST-001-APP-ADC-118/2022-23 dated 12.09.2022. They have further stated that while calculating value of export, value of FOB has to be taken for both numerator as well as denominator. Further, instead of following the same value of FOB, department is taking two different value of exports which is against the law as well as interpretations in common parlance, and requested to ~~reject~~ the departmental appeals.

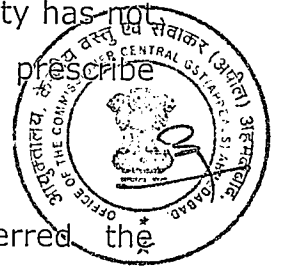


Discussion and Findings :

6. I have carefully gone through the facts of the case, grounds of appeal, submissions made by the Respondent and documents available on record. The facts and grounds in all five appeals are same. I find that the present appeals were filed to set aside the impugned orders on the ground that the adjudicating authority has sanctioned excess refund to the Respondent and hence to order recovery of the same along with interest. The grounds made in appeals is that the Adjudicating Authority has considered FOB Value for turnover of zero rated supply of goods in "Adjusted Total Turnover" for arriving admissible refund instead of value as per GSTR-3B i.e. Invoice value in light of Section 2(112) of the CGST Act, 2017 read with Rule 89(4) of the CGST Rules vide which the Adjusted Total Turnover is defined. Whereas, the Respondent has mainly contended in the present appeals that they have considered FOB Value as mentioned in Shipping Bills as the value of zero rated supplies being same is lower than the transaction value of the zero rated supplies and the same is in

consonance with para 47 of Board Circular No. 125/44/2019-GST dated 18.11.2019.

7. The aforesaid Circular No. 125/44/2019-GST dated 18.11.2019 clearly clarify that in case of claim made for refund of unutilized ITC on account of export of goods where there is difference in value declared in tax invoice and export value declared in corresponding shipping bill, the lower of the two value should be taken into account while calculating the eligible amount of refund. In the subject cases the Respondent has taken FOB Value towards turnover of zero rated supply of goods as being lower than the Invoice Value and same value considered in Adjusted Total Turnover for zero rated supplies. Whereas, the appellant/department has filed present appeals on the grounds that while calculating admissible amount of refund the adjudicating authority has not considered the adjusted total turnover as per GSTR-3B in the prescribe formula.



8. Further, I find that the Respondent has referred the Notification No. 14/2022-CT dated 05.07.2022 and contended that for the purpose of Rule 89(4) the value of goods exported i.e. zero rated supply of goods should be considered as FOB Value as per Shipping Bill or value declared in tax invoice whichever is less. The Respondent has further referred the CBIC Circular No. 147/03/2021-GST dated 12.03.2021 and contended that the same value (i.e. FOB Value) considered for zero rated turnover should be consider for the turnover of zero rated supply of goods in Adjusted Total Turnover also. Therefore, the Appellant/Department considered FOB Value in numerator and transaction value in denominator is completely incorrect and not proper.

9. In view of above I also refer para 4 of CBIC Circular NO.147/03/2021-GST dated 12-3-2021, wherein Board has given guidelines for calculation of adjusted total turnover in an identical issue as under :

4. *The manner of calculation of Adjusted Total Turnover under sub-rule (4) of Rule 89 of CGST Rules, 2017.*

4.1 *Doubts have been raised as to whether the restriction on turnover of zero-rated supply of goods to 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, imposed by amendment in definition of the "Turnover of zero-rated supply of goods" vide Notification No. 16/2020-Central Tax dated 23.03.2020,*

would also apply for computation of "Adjusted Total Turnover" in the formula given under Rule 89 (4) of CGST Rules, 2017 for calculation of admissible refund amount.

4.2 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:

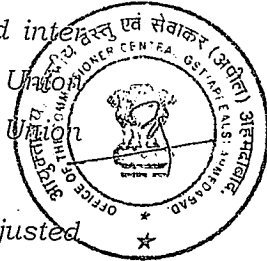
"Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover"

4.3 Adjusted Total Turnover has been defined in clause (E) of sub-rule (4) of Rule 89 as under:

"Adjusted Total Turnover" means the sum total of the value of- (a) the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and (b) the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding- (i) the value of exempt supplies other than zero-rated supplies; and (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period.'

4.4 "Turnover in state or turnover in Union territory" as referred to in the definition of "Adjusted Total Turnover" in Rule 89 (4) has been defined under sub-section (112) of Section 2 of CGST Act 2017, as: "Turnover in State or turnover in Union territory" means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and exempt supplies made within a State or Union territory by a taxable person, exports of goods or services or both and inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess"

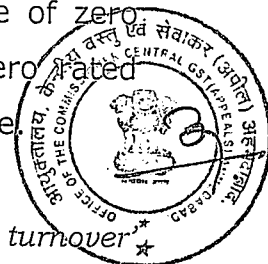
4.5 From the examination of the above provisions, it is noticed that "Adjusted Total Turnover" includes "Turnover in a State or Union Territory", as defined in Section 2(112) of CGST Act. As per Section 2(112), "Turnover in a State or Union Territory" includes turnover/ value of export/ zero-rated supplies of goods. The definition of "Turnover of zero-rated supply of goods" has been amended vide Notification No.16/2020-Central Tax dated 23.03.2020, as detailed above. In view of the above, it can be stated that the same value of zero-rated/ export supply of goods, as calculated as per amended definition of "Turnover of zero-rated supply of goods", need to be taken into consideration while calculating "turnover in a state or a union territory", and accordingly, in "adjusted total turnover" for the purpose of sub-rule (4) of Rule 89. Thus, the restriction of 150% of the value of like goods domestically supplied, as applied



in "turnover of zero-rated supply of goods", would also apply to the value of "Adjusted Total Turnover" in Rule 89 (4) of the CGST Rules, 2017.

4.6 Accordingly, it is clarified that for the purpose of Rule 89(4), the value of export/ zero rated supply of goods to be included while calculating "adjusted total turnover" will be same as being determined as per the amended definition of "Turnover of zero-rated supply of goods" in the said sub-rule.

Applying the above clarification, the value of turnover of zero rated supply of goods i.e. value of export taken towards turnover of zero rated supply of goods need to be taken as value of zero rated supply of goods in adjusted total turnover in the formula. In other words, in cases where there is only zero rated supply of goods, turnover value of zero rated supply of goods at numerator and turnover value of zero rated supply in total adjusted total turnover at denominator will be same.



10. I further find that as per definition of 'adjusted total turnover' defined in clause (E) of sub-rule (4) of Rule 89, adjusted total turnover includes value of all outward supplies of goods and services made during the relevant period including zero rated (export) supply of goods. Accordingly, in the formula prescribed under Rule 89 (4) of CGST Rules the value of zero rated turnover of goods i.e. value of export comes at numerator as well as in total adjusted turnover at denominator. In the present appeals, the value of zero rated turnover i.e. value of export was taken as FOB value as per shipping bill. However, the adjusted turnover is taken as per GSTR-3B returns, which imply that turnover of zero rated supply in adjusted total turnover is taken as invoice value. Apparently, this result in adopting two different values for same zero rated supply of goods, which I find is wrong and not in consonance with statutory provisions, as the CBIC has conspicuously clarified vide aforesaid Circular dated 12.03.2021 that "for the purpose of Rule 89(4), the value of export/ zero rated supply of goods to be included while calculating "adjusted total turnover" will be same as being determined as per the amended definition of "Turnover of zero-rated supply of goods" in the said sub-rule". Therefore, I am of the considered view that the same value of zero rated supply of goods i.e. value of export (FOB Value) taken as turnover of zero rated supply of goods in present matters need to be taken in adjusted total turnover also.

11. In view of above facts of the case, submissions made by Respondent and discussion made herein above, I hold that the adjudicating authority has rightly considered the turnover of zero rated

supply of goods based on FOB Value being lower value in accordance with Circular No. 125/44/2019-GST dated 18.11.2019 read with Notification No. 14/2022-CT dated 05.07.2022. Further, the adjudicating authority has also rightly considered the same value in adjusted total turnover for zero rated supplies in accordance with Circular No. 147/03/2021-GST dated 12.03.2021. Further, the Respondent has contended in the present matters that this appellate authority has taken similar view in favour of Respondent vide OIA No. AHM-CGST-001-APP-ADC-118/2022-23 dated 12.09.2022, AHM-CGST-001-APP-ADC-156/2021-22 dated 29.03.2022 and AHM-CGST-001-APP-ADC-207/2022-23 dated 06.01.2023.

12. In view of above, I do not find any merit or legality in the present appeals filed by the *Appellant* to set aside the impugned orders and order for recovery of erroneous/excess refund sanctioned to the *Respondent* on the grounds mentioned in appeals. Accordingly, I upheld the *impugned orders* and reject the appeals filed by the *appellant/department*.

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

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

(Adesh Kumar Jain)
14/07/2023

(Adesh Kumar Jain)
Joint Commissioner (Appeals)

Date: 14.07.2023

Attested

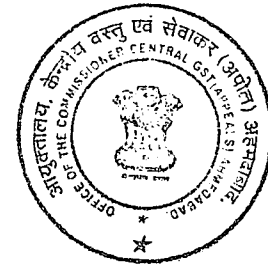
(Dinesh Jadav)
14/07/23

Superintendent (Appeals)
Central Tax, Ahmedabad

By R.P.A.D.

To,
The Assistant / Deputy Commissioner,
CGST, Division - VIII, Ahmedabad South.

M/s. U Square Life Science Private Limited,
A 1101, A 1102, A 1103, Solitaire Corporate Park,
Beside Divya Bhaskar Press, SG Highway,
Sarkhej, Ahmedabad 380 051



Appellant

Respondent

Copy to :

1. The Principal Chief Commissioner, 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-VIII, Ahmedabad South.
5. The Superintendent (Systems), CGST Appeals, Ahmedabad.
6. Guard File.
7. P.A. File

