



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- 20230564SW0000018567

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/2961/2022 -APPEAL / 1011 - 16

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-9/2023-24**

दिनांक Date : **28-04-2023** जारी करने की तारीख Date of Issue : **02-05-2023**

श्री मिहिर रायका_अपर आयुक्त (अपील) द्वारा पारित

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

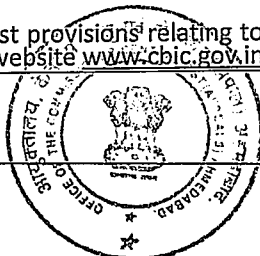
ग Arising out of Order-in-Original No. **ZA2408220057133 DT. 04.08.2022** , issued by
The Assistant Commissioner, CGST, Division-VIII, Ahmedabad South

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

M/s. Kewalram Textiles Private Limited, Anand Nagar Road, Eight Floor 803,

Shop Atlantis, Near Reliance Pump Prahalad Nagar Road, Satellite, Ahmedabad-380015

(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

M/s. Kewalram Textiles Private Limited, Anand Nagar Road, Eight Floor 803 Shop Atlantis, Near Reliance Petrol Pump Prahalad Nagar Road, Satellite, Ahmedabad – 380 015 (hereinafter referred as '**Appellant**') has filed the appeal against the Order (in Form RFD-06) bearing No. ZA2408220057133 dated 04.08.2022 (hereinafter referred as '**impugned order**') passed by the Assistant Commissioner, CGST, Division-VIII, Ahmedabad South (hereinafter referred as '**adjudicating authority**').

2(i). Briefly stated the facts of the case is that the '**Appellant**' holding GST Registration - GSTIN No.24AACCK7917K1ZB had filed the refund application under category "*Export of Goods/Services without payment of Tax (Accumulated ITC)*" under ARN No. AA240722045192K dated 13.07.2022 for Rs.4,69,78,745/- for the period of March 2022. The '**Adjudicating Authority**' vide '**Impugned Order**' sanctioned the refund of Rs.4,06,14,944/- to the **Appellant** and rejected the refund claim of Rs.63,63,801/-. The reason for rejecting refund claim as mentioned in the **impugned order** are as under :

- *Claimant has not considered the value of zero rated turnover as per para 47 of Circular No. 125/44/2019-GST dated 18.11.19. After examining the invoices and shipping bills for relevant period, the lower of the two values i.e. Invoice Value and FOB Value of corresponding shipping bills is comes to Rs.85,71,02,109/-. Accordingly, said value considered as Zero rated turnover for calculate the admissible amount of refund.*
- *Claimant has taken value of Adjusted Turnover as Rs.86,21,59,750/-, however, as per Shipping Bills and as per domestic supply shown in GSTR 3B of March'22 it is Rs.91,32,38,470/-, accordingly, considered Rs.91,32,38,470/- as Adjusted Turnover to calculate the admissible amount of refund.*
- *Claimant has shown exempted supply/nil rated supply of Rs.8,40,09,811/- in GSTR 3B of March'22. However, not reversed the proportionate ITC of Rs.39,80,919/- commonly used for taxable as well as exempted/nil rated supply in terms of Section 17(2) of the CGST Act, 2017 read with Rule 42 of the CGST Rules, 2017. Accordingly*



of Rs.4,32,75,041/- (47255960 – 3980919) considered for calculate the admissible amount of refund in prescribed formula.

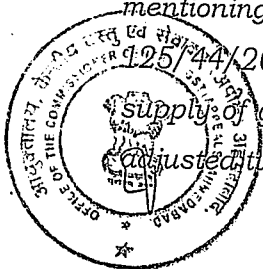
- In view of above, admissible refund amount calculated as under :

$$\begin{aligned} \text{Refund admissible as per formula} &= \frac{\text{Turnover of Zero Rated} * \text{Net ITC}}{\text{Total Adjusted Turnover}} \\ &= \frac{85,71,02,109 * 4,32,75,041}{91,32,38,470} \\ &= \text{Rs.4,06,14,944/-} \end{aligned}$$

- As regards to non reversal of ITC of Rs.39,80,919/- the claimant in their reply dated 03.08.22 before the adjudicating authority has stated that said amount shown in GSTR 3B is related to supply of Duty Credit Scrips, which is exempted as per Notification No. 35/2017-Central Tax (Rate), dated 13.10.17. Further, the claimant has stated that a clause (d) in Explanation 1 to Rule 43 Explanation has been inserted vide Notification No. 14/2022 Central Tax dated 05.07.22 issued by CBIC. As per said clause (d) the aggregate value of Exempted Supply shall excludes the value of Duty Credit Scrips for the purpose of proportionate reversal of Input & Input Services which were commonly used in taxable as well as exempted supply as per Rule 42 of the CGST Rules, 2017. Therefore, they are not required to do proportionate reversal of Input & Input Services which were commonly used in taxable as well as exempted supply/nil rated supply as per Section 17(2) of the CGST Act, 2017 read with Rule 42 of the CGST Rules, 2017.
- The said Notification No. 14/2022-Central Tax dated 05.07.2022 issued by the CBIC came into force on the date of their publication in the Official Gazette i.e. dated 05.07.22. Therefore, the benefit for the exempted/nil supply made in the month of March'2022 is not admissible for the claimant as the said notification is not given effect retrospectively. Accordingly, the ITC of Rs.39,80,919/- is required to be reversed as per Section 17(2) of the CGST Act, 2017 read with Rule 42 of the CGST Rules, 2017.

2(ii). Being aggrieved with the impugned order dated 04.08.2022 the 'Appellant' has filed the present appeal online on dated 06.10.2022 on the following grounds :

- They had submitted detailed point wise reply to SCN on 03.08.22 by mentioning facts of case that by considering para 47 of Circular No. 25/44/2019-GST dated 18.11.19, the amount of turnover of Zero-rated supply of goods and services should be Rs.85,71,02,109/- while total adjusted turnover should be Rs.91,32,38,470/-.



- They have shown exempted supply/nil rated supply amounting to Rs.8,40,09,811/- in GSTR 3B of March'22 is relating to Supply of Duty Credit Scrips and for that reversal of input tax credit is not required as in Explanation 1 of Rule 43, clause (d) inserted through Notification No. 14/2022 Central Tax dated 05.07.2022 by the Central Board of Indirect Taxes and Customs.
- As per this clause (d) in Explanation 1 to Rule 43 which says that the value of supply of Duty Credit Scrips shall be excluded from the aggregate value of exempt supplies. Hence, for the supply of Duty Credit Scrips reversal of Input Tax Credit under Rule 42 & 43 not required.
- Thus, they are not liable to reverse the credit of Rs.39,80,919/- as mentioned in SCN because this issue is very well settled by inserting a clause (d) in Explanation 1 of Rule 43 of CGST Rules.
- Apart from the above mentioned clause (d), they also relied upon the judgment of Commissioner (Appeals) CGST, Jaipur in the matter of M/s. Akriti Manufacturing Private Limited Versus Assistant Commissioner, CGST, Division – E, Behror, Alwar where it was held that appellant is required to do proportionate reversal of common credit in respect of Telephone Services, Courier Services, Computer Repairing Services, Internet Services, Rental Services and purchase of Stationary items used for taxable supplies including Zero-rated supplies as well as exempted supply of MEIS License.
- Facts of the current appeal is identical with the facts of the above judgment of Commissioner (Appeals) CGST, Jaipur. Thus, issue in this appeal is squarely covered by the above judgment and shall be followed.
- Learned Adjudicating Authority has mentioned in para 18.2 of the impugned OIO that the Notification No. 14/2022 came in to force on the date of publication in the Official Gazette i.e. dated 05.07.2022. Therefore, benefit for exempted/nil supply made in March 2022 is not admissible for the claimant as the said Notification is not given effect retrospectively. Accordingly, ITC of Rs.39,80,919/- is required to be reversed as per Section 17(2) of the CGST Act, 2017 read with Rule 42 of the CGST Rules, 2017.
- Appellant strongly pleading that though in the notification it is not mentioned that it is retrospectively applicable but the intension of the GST Council to amend the law is to overcome the exporters from the hardship faced by them in relation to proportionately reversal of Input Tax Credit issues for supply of duty credit scrips. When any explanation inserted in



- the provisions of Act or Rules then it should be read as it was integral part of the law from the very beginning in true and letter of spirit.
- Entire Impugned OIO is totally silent about why the judgment of Commissioner (Appeals) CGST Jaipur on which appellant is relying is not applicable in the present case.
 - For the month of March 2022, out of all Inward Supplies, tax paid on common inward supplies is of Rs.18,966/- only for that proportionate reversal is required as per the following formula as mentioned in Rule 42 of the CGST/SGST Rules, 2017.

Amount of proportionate reversal as per Rule 42, $D1 = E/F * C2$

Value of duty credit scrips (E) Rs.8,40,09,811/- divided by adjusted total turnover (F) of Rs.99,72,48,481/- multiplied by common credit (C2) of Rs.18,966/-, comes to be Rs.1,598/- which they have reversed by DRC-03 along with interest Rs.120/-.

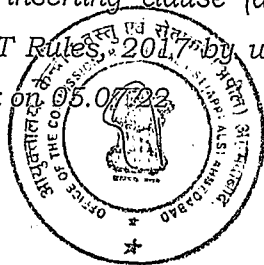
They produced the worksheet/Chart in respect of calculation of aforesaid proportionate reversal of credit with the present appeal.

- Accordingly, they are eligible for refund as under :

$$\begin{aligned} \text{Refund admissible as per formula} &= \frac{\text{Turnover of Zero Rated} * \text{Net ITC}}{\text{Total Adjusted Turnover}} \\ &= \frac{85,71,02,109 * 4,72,54,362}{91,32,38,470} \\ &= \text{Rs.4,43,49,658/-} \end{aligned}$$

While actual amount of Refund granted to them is Rs.4,06,14,944/-. Hence, they requested to appellate authority to ordered for granting remaining refund of Rs.37,34,714/-

- Rejecting partial refund amount considering all purchase of goods as a Common Inputs despite the fact that goods which are purchase are exported entirely and hence such goods are exclusively used for taxable/zero rated supply and no reversal of it required.
- Sale of MEIS license is not a supply at all but just reimbursement by the government for taxes suffered by exporter and in absence of supply, question of considering such supply as exempt supply doesn't arise.
- Rejecting partial refund claim on the ground that appellant is required to reverse proportionate input tax credit as per Section 17(2) of the CGST Act, 2017 read with Rule 42 of the CGST Rules, 2017 in relation to supply of Duty Credit Scrips despite the fact that this issue is very well settled by inserting clause (d) in Explanation 1 of Rule 43 of the CGST/SGST Rules, 2017 by way of issuing Notification No. 14/2022-Central Tax on 05.07.22



- *Rejecting partial refund claim on the grounds that the Notification No. 14/2022 – Central Tax dated 05.07.22 came into force on the date of their publication in the Official Gazette i.e. dated 05.07.22. Therefore, the benefit for exempted/nil supply made in the month of March 2022 is not admissible for the claimant as the said notification is not given effect retrospectively despite considering the facts that when any explanation inserted in the provisions of Act or Rules then it should be read as it was integral part of the law from the very beginning in true and letter of spirit because such problem was faced by industry from the beginning and not from the date of notification, and to overcome from the hardship faced by exporter decision taken by GST Council to amend the law.*
- *Passing impugned OIO without considering judgment of Commissioner (Appeals) CGST Jaipur on which appellant is relying and no finding given as to why such judgment is not applicable in the present case.*
- *As per Rule 42 of CGST/SGST Rules, 2017 proportionate credit reversal is required to be done of common credit amount which is $C2=C1-T4$, while learned adjudicating officer asks for proportionate credit reversal on the entire net ITC amount.*

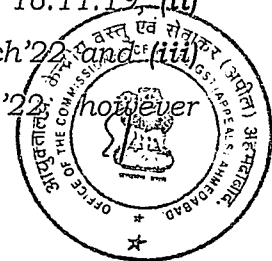
In view of above, the *appellant* has made prayer as under :

- *Impugned Order be quashed and set aside on the above stated grounds.*
- *To grant remaining refund amount along with applicable interest.*

3. Personal Hearing in the matter was held on 20.12.2022 wherein Mr. Punit Prajapati, C.A. & Mr. Keyur Kamdar, C.A. Were appeared on behalf of the '*Appellant*' as authorized representatives. During PH they have 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, grounds of appeal, submission made by the *Appellant* and documents available on record. I find that the *Appellant* had filed a refund claim of Rs.4,69,78,745/- for the month of March'22 on account of accumulated ITC due to export without payment of tax. The *Adjudicating Authority* has sanctioned the refund of Rs.4,06,14,944/- and rejected the refund claim of Rs.63,63,801/-. I find that the refund of Rs.63,63,801/- is mainly rejected for the reasons that (i) *declared zero rated turnover was not according to para 47 of Circular No. 125/44/2019-GST dated 18.11.19, (ii) declared Adjusted Turnover was not as per GSTR 3B of March'22, and (iii) There was exempted supply as per GSTR 3B of March'22, however*



proportionate ITC not reversed in terms of Section 17(2) of the CGST Act, 2017 read with Rule 42 of the CGST Rules, 2017.

4(ii). The *appellant* in the present appeal proceedings mainly contended that the exempted supply/nil rated supply of Rs.8,40,09,811/- shown in GSTR 3B of March'22 is relating to Supply of Duty Credit Scrips and the CBIC has issued Notification No. 14/2022-Central Tax dated 05.07.22 vide which inserted clause (d) in Explanation 1 to Rule 43; which says that the value of supply of Duty Credit Scrips shall be excluded from the aggregate value of exempt supplies. The relevant provisions of Rule 43 is reproduced as under :

[Explanation 1]:-For the purposes of Rule 42 and this rule, it is hereby clarified that the aggregate value of exempt supplies shall exclude: -

*(a) [****]*

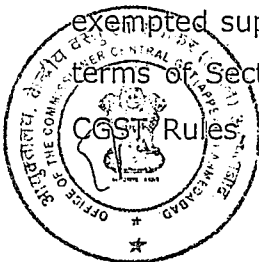
(b) the value of services

(c) the value of supply of services

(d) the value of supply of Duty Credit Scrips specified in the notification of the Government of India, Ministry of Finance, Department of Revenue No. 35/2017-Central Tax (Rate), dated the 13th October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number GSR 1284(E), dated the 13th October, 2017.]

Accordingly, the *appellant* has contended that for the supply of Duty Credit Scrips, the proportionate Input Tax Credit of Rs.39,80,919/- as mentioned in SCN, they are not liable to reversed the same under Rule 42 & 43 of the CGST Rules, 2017. However, the *Adjudicating authority* has given findings in the impugned order that "*the Notification No. 14/2022 – Central Tax dated 5th July 2022 came into force on the date of their publication in the Official Gazette i.e. dated 05.07.2022. Therefore, the benefit for the exempted/nil supply made in the month of March 2022 is not admissible for the claimant as the said notification is not given effect retrospectively. Accordingly, the ITC of Rs.39,80,919/- is required to be reversed as per Section 17(2) of the CGST Act, 2017 read with Rule 42 of the CGST Rules, 2017.*"

4(iii). In view of above facts, I find that the *appellant* has shown exempted/nil rated supply of Rs.8,40,09,811/- in GSTR 3B of March'22 which is related to supply of Duty Credit Scrips. Since, this is exempted supply the *appellant* is liable to reverse proportionate credit in terms of Section 17(2) of the CGST Act, 2017 read with Rule 42 of the CGST Rules, 2017. However, as per Notification 14/2022 – Central Tax



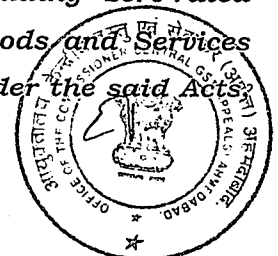
dated 05.07.2022 for the purposes of Rule 42 and 43, the aggregate value of exempt supplies shall exclude value of supply of Duty Credit Scrips. Accordingly, the *appellant* has mainly contended in the present appeal proceedings that since the exempted/nil rated supply shown by them in relevant GSTR 3B is related to Duty Credit Scrips they are not liable to reverse credit in terms of Rule 42 of the CGST Rules, 2017. However, I find that the *adjudicating authority* in the *impugned order* has held that the said notification is came in force on 05.07.2022 and the period in dispute is of March'22 so, *appellant* is not eligible for benefit of said notification. Further, I find that the *appellant* in this regard has contended that *"though in the notification it is not mentioned that it is retrospectively applicable but the intention of the GST Council to amend law is to overcome the exporters from the hardship faced by them in relation to proportionately reversal of credit issues for supply of duty credit scrips. When any explanation inserted in the provisions of Act or Rules then it should be read as it was integral part of the law from the very beginning in true and letter of spirit."* However, I find that in the said Notification No. 14/2022-Central Tax dated 05.07.2022 it is clearly mentioned that *"Save as otherwise provided in these rules, they shall come into force on the date of their publication in the Official Gazette"*. Therefore, as there is no mention in the said notification that above amendment in Rule 43 is retrospectively effective, I am of the view that the *appellant* is not eligible for benefit of excluding value of supply of duty credit scrips from the aggregate value of exempt supplies for the period of March'2022.

4(iv). Further, I find that the *appellant* has also contended that *"as per Rule 42 of CGST/SGST Rules, 2017 proportionate credit reversal is required to be done of common credit amount which is $C2=C1-T4$, while learned adjudicating officer asks for proportionate credit reversal on the entire net ITC amount"*. Accordingly, I hereby referred the relevant provisions, same are reproduced as under :

Section 17. Apportionment of credit and blocked credits.-

(1) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts



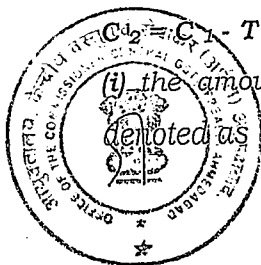
the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

In view of above, I find that according to the aforesaid Section 17 of the CGST Act, 2017, in the matter, where goods or services are used partly for effecting taxable supplies including zero-rated supplies and partly for effecting exempt supplies, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies. This means that ITC attributable to exempt supplies shall not be allowed. Further, I find that where there is issue of availment of common ITC of goods/services which are used partly for taxable supplies and partly for exempt supplies, Rule 42 of the CGST Rules, 2017 prescribes the "Manner of determination of input tax credit in respect of inputs or input services and reversal thereof" in the following manner, namely,-

- (a) the total input tax involved on inputs and input services in a tax period, be denoted as "T";
- (b) the amount of input tax, out of "T", attributable to inputs and input services intended to be used exclusively for the purposes other than business, be denoted as 'T1';
- (c) the amount of input tax, out of "T", attributable to inputs and input services intended to be used exclusively for effecting exempt supplies, be denoted as 'T2';
- (d) the amount of input tax, out of "T", in respect of inputs and input services on which credit is not available under sub-section (5) of section 17, be denoted as 'T3';
- (e) the amount of input tax credit credited to the electronic credit ledger of registered person, be denoted as 'C1' and calculated as-
- $$C1 = T - (T1 + T2 + T3);$$
- (f) the amount of input tax credit attributable to inputs and input services intended to be used exclusively for effecting supplies other than exempted but including zero rated supplies, be denoted as 'T4';
- (g) 'T 1', 'T 2', 'T 3' and 'T 4' shall be determined and declared by the registered person ²[***] ³[at summary level in **FORM GSTR-3B**];
- (h) input tax credit left after attribution of input tax credit under clause [(f)] shall be called common credit, be denoted as 'C 2' and calculated as-

$C_2 = C_1 - T_4;$

- (i) the amount of input tax credit attributable towards exempt supplies, be denoted as 'D 1' and calculated as-



$$D_1 = (E / F) \times C_2$$

where,

'E' is the aggregate value of exempt supplies during the tax period, and
'F' is the total turnover in the State of the registered person during the tax period:

(j) the amount of credit attributable to non-business purposes if common inputs and input services are used partly for business and partly for non-business purposes, be denoted as 'D₂' and shall be equal to five per cent. of C₂ ; and

(k) the remainder of the common credit shall be the eligible input tax credit attributed to the purposes of business and for effecting supplies other than exempted supplies but including zero rated supplies and shall be denoted as 'C₃', where,-

$$C_3 = C_2 - (D_1 + D_2);$$

[(l) the amount 'C₃', 'D₁' and 'D₂' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in **FORM GSTR-3B** or through **FORM GST DRC-03**;

(m) the amount equal to aggregate of 'D₁' and 'D₂' shall be [reversed by the registered person in **FORM GSTR-3B** or through **FORM GST DRC-03** :]

Provided that where the amount of input tax relating to inputs or input services used partly for the purposes other than business and partly for effecting exempt supplies has been identified and segregated at the invoice level by the registered person, the same shall be included in 'T 1' and 'T 2' respectively, and the remaining amount of credit on such inputs or input services shall be included in 'T 4'.

In view of above facts, I am of the view that the *appellant* has appropriately contended in the present appeal proceedings that the proportionate credit reversal is required to be done of common credit amount according to above stated manner as prescribed under Rule 42 of the CGST Rules, 2017, instead of proportionate credit reversal on the entire net ITC amount as per impugned order.

5. Further, I find that in the present appeal proceedings the *appellant* is not disputing about the rejection of refund claim on the grounds of Zero rated turnover not found as per Circular 125/44/2019-GST and the Adjusted Turnover not found as per relevant GSTR 3B. However, I find that the *appellant* is mainly disputing about the rejection of refund claim on the grounds of non reversal of proportionate ITC of Rs.39,80,919/- in terms of Section 17(2) of the CGST Act, 2017 read with Rule 42 of the CGST Rules, 2017.



6. As regards to rejection of refund claim on account of non reversal of proportionate ITC, from the impugned order, I find that there is no calculation or method is mentioned in the *impugned order* as to how they worked out the amount of proportionate reversal of ITC of Rs.39,80,919/-. Since, there is specific provision as discussed in foregoing paras that if any registered person engaged in partly for taxable supplies and partly for exempt supplies and availing the common credit, how the amount of credit shall be restricted to so much of the input tax as is attributable to the taxable supplies including zero-rated supplies. However, in the present matter, it is nowhere mention in the *impugned order* as to how the amount of Rs.39,80,919/- is calculated and subsequently rejected the refund considering non reversal of said proportionate ITC of Rs.39,80,919/-. Therefore, I am of the considered view that the said proportionate ITC has not been worked out according to the GST provisions and therefore, the *impugned order* is not legal and proper. The proper officer should have calculate the proportionate amount of ITC require to be reversed by the *Appellant* according to the manner specified under Rule 42 of the CGST Rules, 2017 and admissible refund claim also should have been worked out accordingly. However, I find that without following the proper rules and regulations the present refund claim is rejected to the extent of non reversal of ITC in terms of Section 17 of the CGST Act read with Rule 42 of the CGST Rules, 2017.

7. In view of above discussions, I hereby set aside the '*impugned order*' being not legal and proper to the extent of rejection of refund on account of non reversal of proportionate ITC in terms of Section 17(2) of the CGST Act, 2017 read with Rule 42 of the CGST Rules, 2017 and allowed the appeal of the *Appellant* to that extent only.

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

The Appeal filed by '*Appellant*' stand disposed off in above terms.

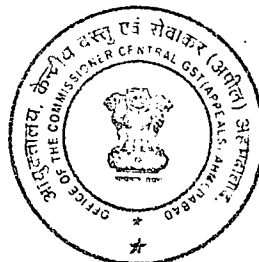
(Mihir Rayka)

Additional Commissioner (Appeals)

Date: 28.04.2023

Attested

(Dilip Jadav)
Superintendent (Appeals)
Central Tax, Ahmedabad



By R.P.A.D.

To,

M/s. Kewalram Textiles Private Limited,
Anand Nagar Road, Eight Floor 803 Shop Atlantis,
Near Reliance Petrol Pump Prahalad Nagar Road,
Satellite, Ahmedabad - 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 Dy/Asstt. Commissioner, CGST, Division-VIII, Ahmedabad South.
5. The Superintendent (Systems), CGST & C. Ex., Appeals, Ahmedabad.
6. Guard File.
7. P.A. File

