



सत्यमेव जयते

आयुक्तकाकार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeal Ahmedabad Commissionerate
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.
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By Regd. Post/E-mail

DIN NO.: 20240464SW000000AFOE

(क)	फ़ाइल संख्या / File No.	GAPPL/ADC/GSTP/2125/2024/4661 - 4666
(ख)	अपील आदेश संख्या और दिनांक / Order-In - Appeal and date	AHM-CGST-001-APP-JC-12/2024-25 and 26.04.2024
(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	29.04.2024
(ङ)	Arising out of Order-In-Original No. ZQ2402210098147 dated 08.02.2021 passed by The Deputy/Assistant Commissioner, CGST Division- VI, Ahmedabad South Commissionerate.	
(च)	Name of the Appellant	Name of the Respondent
	M/s Creative Engineers and Services Private Limited, Ground Floor 15, 16/B, Sangini Complex, C.G.Road. Near Doctor House, Ahmedabad, Gujarat, 380006	The Deputy/Assistant Commissioner, CGST Division- VI, Ahmedabad South Commissionerate

(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 <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. Creative Engineers and Services Private Limited, 15,16/B Ground Floor, Sangini Complex, C.G.Road, Near Doctor House, Ahmedabad-380006, Gujarat (GSTIN24AAFCC6170R1Z7) (hereinafter referred to as the 'Appellant') has filed the present appeal against the Order No. RFD-06-ZQ2402210098147 dated 08.02.2021 (hereinafter referred to as the 'impugned order') rejecting refund claim of CGST amounting to Rs. 1,37,790 and SGST amounting to Rs.1,37,790/- (total refund claim amounting to Rs. 2,75,580/-) passed by the Assistant Commissioner, CGST &, C. Ex., Division-VI, Ahmedabad South Commissionerate (hereinafter referred to as the 'adjudicating authority').

2. Briefly stated the fact is that the appellant filed refund claim of Rs.2,75,580/- under Section 54 of the CGST Act, 2017 vide ARN No.AA240121069046P dated 21.01.2021 for the period August'2018. A show cause notice ZY2401210247435 dated 28.01.2021 was issued to the appellant asking reasons for " 1. As per rule 92(1A) the refund is proportion to cash and ITC as per payment made in relevant period is eligible. Thus refund is not admissible in cash delay in refund application. 2. Claim is time barred as per the provisions of the section 54(14) of the CGST Act, 2017. The said refund claim has been rejected by the adjudicating authority vide impugned order on the grounds that the refund claim is time barred as per the provisions of the Section 54(14) of the CGST Act, 2017.

3. Being aggrieved with the impugned order, the appellant filed online appeal before the appellate authority on 31.01.2024 on the following grounds:-

a. The appellant is doing a business of trading in all type of Electrical and Electronics Goods

b. They are dissatisfied by the impugned order wherein their refund claim rejected on the grounds of time barred without considering the Notification No.53/2023-Central Tax and Circulars issued for the refund application.

With the above submissions, the appellant requested to allow their appeal.

PERSONAL HEARING

4. Personal Hearing in the matter was held on 25.04.2024, whereby Shri Amit, Chartered Accountant appeared before me, on behalf of the appellant and reiterated their written submissions and requested to allow their appeal.

DISCUSSION & FINDINGS

5. I have carefully gone through the facts of the case and submissions made by the appellant at the time of personal hearing. The said refund claim is rejected vide *impugned order* on the grounds of time barred, and accordingly, *appellant* has challenged the *impugned order* under present appeal proceedings

Therefore, first of all, I would like to take up the issue of filing the appeal and before deciding the issue of filing the appeal on merits, it is imperative that the statutory provisions be gone through, which are reproduced, below:

SECTION 107. Appeals to Appellate Authority. — (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.

(2)

(3)

(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a **further period of one month.**

6. I observed that in the instant case, that as against the *impugned order* of dated 08.02.2021, the appeal has been filed on 31.01.2024 i.e. appeal filed by delay from the normal period prescribed under Section 107(1) of the CGST Act, 2017. I find that though the delay in filing the appeal is condonable only for a further period of one month provided that the *appellant* was prevented by sufficient cause from presenting the appeal is shown and the delay of more than one month is not condonable under the provisions of sub section (4) of Section 107 of the Central Goods and Service Tax Act, 2017. I observe in the present case, the appeal has been filed beyond a period 3 years which cannot be condoned.

7. The appellant has referred to Notification No.53/2023-Central Tax dated 02.11.2023 giving relaxation for the timeline to file appeal. I observe that the appellant is ineligible to avail the benefits of the aforesaid Notification as they do not fall under the conditions laid down in the said notification:

(a) The timeline relaxation benefit is given only to those orders passed by the proper officer on or before the 31st day of March,2023 under Section 73 or 74 of the CGST Act, 2017.

(b) No appeal under Notification No.53/2023-Central Tax dated 02.11.2023 shall be admissible in respect of a order passed other than under Section 73 or 74 of CGST Act, 2017. Since the impugned order is a Refund Order under Section 54 of the CGST Act, 2017, therefore the benefits of Notification No.53/2023-Central Tax dated 02.11.2023 is not available to the appellant.

8. In view of the above findings and discussion, I hereby reject the appeal filed by the appellant.

9.. अपील कर्था 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
26/04/2024

(Adesh Kumar Jain)

Joint Commissioner (Appeals)

Date : 04.2024

Attested

Vijayalakshmi V
(Vijayalakshmi V) 28/4/24
Superintendent
Central Tax (Appeals),
Ahmedabad



By RPAD

To,

M/s. Creative Engineers and Services Private Limited,
15,16/B Ground Floor, Sangini Complex,
C.G.Road, Near Doctor House
Ahmedabad-380006

Copy to :

- 1) The Principal Chief Commissioner, Central tax, Ahmedabad Zone
- 2) The Commissioner, CGST & Central Excise (Appeals), Ahmedabad
- 3) The Commissioner, CGST, Ahmedabad South
- 4) The Assistant Commissioner, CGST, Division VI, Ahmedabad South
- 5) The Additional Commissioner, Central Tax (Systems),
Ahmedabad South
- 6) Guard File
- 7) PA file

