



सत्यमेव जयते

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

DIN NO.: 20240564SW000000E7D4

(क)	फ़ाइल संख्या / File No.	GAPPL/ADC/GSTP/1311/2024 / 5080 25
(ख)	अपील आदेश संख्या और दिनांक / Order-In - Appeal and date	AHM-CGST-001-APP-JC-22/2024-25 and 06.05.2024
(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	06.05.2024
(ङ)	Arising out of Order-In-Original No. ZF2409230376535 dated 29.09.2023 passed by The Deputy Commissioner, CGST Division- VIII, Ahmedabad South Commissionerate.	
(च)	Name of the Appellant	Name of the Respondent
	M/s Beanbite India Private Limited, 6th Floor, D-601, D-602, D-603, Titanium City Center Business Park, Next to Sachin Tower, Nr. Shyamal Cross Road, Satellite, Ahmedabad, Gujarat, 380015	The Deputy Commissioner, CGST Division- VIII, Ahmedabad South Commissionerate

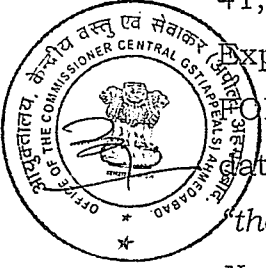
(A)	इस आदेश(अपील) से व्यथित कोई व्यक्ति निम्नलिखित तरीके में उपयुक्त प्राधिकारी /प्राधिकरण के समक्ष अपील दायर कर सकता है। Any person aggrieved by this Order-in-Appeal may file an appeal to the appropriate authority in the following way.
(i)	National Bench or Regional Bench of Appellate Tribunal framed 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 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. Beanbite India Private Limited, 6th Floor, D-601, D-602, D-603, Titanium City Centre Business Park, Next to Sachin Tower, Near Shyamal Cross Road, Satellite, Ahmedabad, Gujarat-380015 (hereinafter referred as 'Appellant') has filed the present appeal against the Order No. ZF2409230376535 dated 29.09.2023 (hereinafter referred as 'impugned order') passed by the Deputy Commissioner, CGST, Division - VIII-Vejalpur, Ahmedabad South (hereinafter referred as 'Adjudicating Authority').

2(i). Briefly stated the fact of the case is that the 'Appellant' is Private Limited Company and engaged in the business of export of Service without Payment of Tax and claiming Refund of Input Tax Credit. They have holding GST Registration - GSTIN No.24AAICB1374K1ZN and filed the refund application ARN No. AA240723114236K dated 31.07.2023 amounting to Rs. 41,925/- for the period from April 2022 to March 2023 in the category of Export of Goods/Services without payment of Tax (Accumulated ITC) under FORM-GST-RFD-01. In response to said refund claim a Show Cause Notice dated 14.09.2023 was issued to the 'Appellant'. It was alleged in the SCN that "the FIRC's pertains to different entity M/s. Beanbite India Private Limited, Flat No. C1/304, Coral Woods Hoshangbad Road, Near C21 Mall, Bhopal, Madhya Pradesh. Therefore the refund claimed by the claimant is not legal and proper." Thereafter, the 'adjudicating authority' has reject the refund claim filed by the appellant on the same ground vide *impugned order*.



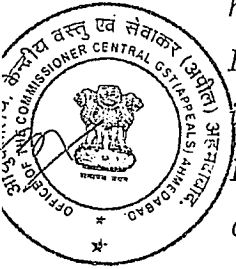
3. Being aggrieved with the impugned order dated 29.09.2023 the 'Appellant' has filed the present appeal on dated 31.12.2023 on the following grounds:

- *The Adjudication officer has Rejected the Refund Application merely on the ground that FIRC i.e Foreign Inward Remittance certificate issued by the Bank has mentioned the Name of Appellant with its Registered address of Madhya Pradesh;*
- *The Adjudication officer has passed the Order rejecting refund application without mentioning DIN;*
- *The Adjudication officer has assumed that without verification of records that 1. M/s. BEANBITE INDIA PVT LTD having Principal Place of business 6th Floor, D-601, D-602, D-603, Titanium City Center Business Park, Next*

to Sachin Tower, Nr. Shyamal Cross Road, Satellite, Ahmedabad, Gujarat, 380015 and ii. M/s. BEANBITE INDIA PVT LTD having Registered Office Flat No. C1/304, Coral Woods, Hoshangabad Road Bhopal, Madhya Pradesh, Bhopal, Bhopal, Madhya Pradesh, India, 462047 are different party but in facts are both are the same party having different address i.e Registered Address and Principal Place of business are different of the same company but Party is not different.

Additional Submission:

- that the Adjudication officer has failed to brought on records any independent documentary evidence supporting his allegation that BEANBITE INDIA PVT LTD Gujarat and Madhya Pradesh are different company. The Adjudication officer has made an assumption without providing any cogent third-party documentary evidence supporting his allegation;
- that the appellant company has Current Bank Account with INDUSIND BANK, Bhopal Branch Madhya Pradesh and hence, the IndusInd Bank has issued FIRC (Foreign Inward Remittance Certificate) in the name of appellant company showing Registered address i.e. Flat No C1/304 Coral Woods Hoshangbad Road Near C21 Mall Bhopal. The bank of appellant has also issued certificate by certifying that BEANBITE INDIA PVT LTD has Bank account with IndusInd Bank , Bhopal Branch and also certified FIRC issued in the Name of appellant and hence, it is proved that Beanbite India Pvt Ltd Gujarat and Madhya Pradesh are the same company having different address;
- that the Adjudication officer has failed to appreciate the fact the FRIC (Foreign Inward Remittance Certificate) mentioned GST Refund Application in form GST RFD-01 and in Certificate issued by IndusInd Bank, Bhopal Branch are the same and hence, it is proved that BEANBITE INDIA PVT LTD Gujarat and Madhya Pradesh are same company having different address such as Registered Address is in Madhya Pradesh and Principal Place of business is in Gujarat;
- that MCA showing that only one company is registered in the name of Beanbite India Pvt Ltd;
- that the adjudication officer has approved the refund application for FY 2021-22 and rejected the refund application for FY 2022-23 even though the appellant company has violated the principles of natural justice by not following his own order;



In view of the detail discussion as mentioned above, the appellant company request to quash the Order passed by the Ld. A.O as it not valid and void ab initio.

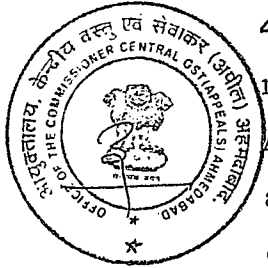
Virtual Hearing:

4. Virtual Hearing in the matter was fixed/held on 19.03.2024, 27.03.2024 and 25.04.2024 wherein Mr. Mukesh OD, C.A. appeared on behalf of the 'Appellant' as authorized representative. During hearing he submitted that in past for the year 2020-21, 2021-22 refund has been sanctioned on the same grounds/documents. The appellant is a private Limited Company and having Registered Office at Bhopal. Bank has also issued invoice wise FIRC. They have only one bank account in IndusInd Bank, Bhopal. Therefore the grounds of rejection by Adjudicating Authority are arbitrary and bad in eyes of law. He further submitted additional submission e-mail and request to allow appeal.

Discussion and Findings :

4(i). I have carefully gone through the facts of the case available on records, submissions and additional submission made by the 'Appellant' in the Appeals Memorandum. The 'Appellant' had preferred refund application amounting to Rs. 41,925/- for the period from April 2022 to March 2023 in the category of Export of Goods/Services without payment of Tax (Accumulated ITC) under FORM-GST-RFD-01. In response to said refund claim a Show Cause Notice dated 14.09.2023 was issued to the 'Appellant'. It was alleged in the SCN that "the FIRCs pertains to different entity M/s. Beanbite India Private Limited, Flat No. C1/304, Coral Woods Hoshangbad Road, Near C21 Mall, Bhopal, Madhya Pradesh. Therefore the refund claimed by the claimant is not legal and proper." Thereafter, the 'adjudicating authority' has reject the refund claim filed by the appellant on the same ground vide *impugned order*.

5(i). In the instant case, it is observed that the refund claim is rejected by the Adjudicating Authority, on the ground that FIRC i.e Foreign Inward Remittance certificate issued by the Bank has mentioned the Name of Appellant with its Registered address of Madhya Pradesh is different entity. They have claimed that they have only one bank account in India and operate from Gujarat and all income received for Gujarat GSTN.



5(ii). In view of the above, the appellant contended that their company is registered in Bhopal, Madhya Pradesh but carrying out its principal business activity from Ahmedabad Gujarat and its Principal Place of Business is in Ahmedabad. Their registered address and principal place of business are different of the same company but party is not different. They further contended that that the appellant company has Current Bank Account with IndusInd Bank, Bhopal Branch Madhya Pradesh and the Indusind Bank has issued FIRC (Foreign Inward Remittance Certificate) in the name of appellant company showing Registered address i.e. Flat No C1/304 Coral Woods Hoshangbad Road Near C21 Mall Bhopal. The bank of appellant has also issued certificate by certifying that BEANBITE INDIA PVT LTD has Bank account with IndusInd Bank , Bhopal Branch and also certified FIRC issued in the Name of appellant and hence, it is proved that Beanbite India Pvt. Ltd Gujarat and Madhya Pradesh are the same company having different address.

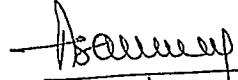
6(i). After gone through the facts of the case available on records, it is observed that the appellant companies registered office is Flat No. C 1/304, Coral Woods, Hoshangabad Road Bhopal, Madhya Pradesh, Bhopal, Bhopal, Madhya Pradesh, India, 462047 but carried out its all Business Activity from Ahmedabad, Gujarat having address 6th Floor, D-601, D-602, D-603, Titanium City Center Business Park, Next to Sachin Tower, Nr. Shyamal Cross Road, Satellite, Ahmedabad, Gujarat, 380015. After going through the export invoice documents issued by the appellant, from Ahmedabad, Gujarat, having address 6th Floor, D-601, D-602, D-603, Titanium City Center Business Park, Next to Sachin Tower, Nr. Shyamal Cross Road, Satellite, Ahmedabad, Gujarat and after going through the Inward Credit Advice issued by the IndusInd Bank, issued to M/s. Beanbite India Private Limited, Flat No. C1/304, Coral Woods Hoshangbad Road, Near C21 Mall, Bhopal, Madhya Pradesh, it is observed that on both the documents, IndusInd Bank Account Number are same.

6(ii). Further in support of their claim the appellant submitted bank authorization letter in which IndusInd Bank has certified that M/s. Beanbite India Private Limited, address of account holder- Titanium City Centre, Near Sachin Tower, 100 Ft Ring Road, Satellite, Ahmedabad, Gujarat is holding current account since 02.02.2019 with MP Nagar Zone 2, Bhopal Branch. However in the instant case the adjudicating authority has not provided any

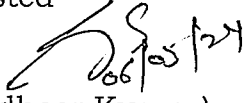
documents which can prove that M/s. Beanbite India Private Limited Gujarat and Madhya Pradesh are different entity. In view of the above I find that Beanbite India Pvt. Ltd Gujarat and Madhya Pradesh are the same company having operation in different state.

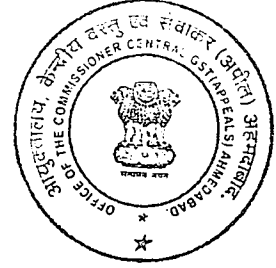
7. In view of above discussions, the *impugned order* passed by the *adjudicating authority* is set aside for being not legal and proper and accordingly, I allow the appeal of the "*Appellant*" without going into merit of all other aspects, which are required to be complied by the claimant in terms of Section 54 of the CGST Act, 2017 read with Rule 89 of the CGST Rules, 2017, which may be examined by the Refund Sanctioning Authority at the time of processing refund application consequential to this order.

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.


26/05/2024
(Adesh Kumar Jain)
Joint Commissioner (Appeals)
Date: 06.05.2024

Attested


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



By R.P.A.D.

To,
M/s. Beanbite India Private Limited,
6th Floor, D-601, D-602, D-603,
Titanium City Centre Business Park,
Next to Sachin Tower,
Near Shyamal Cross Road, Satellite,
Ahmedabad, Gujarat-380015.

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 Deputy/Asstt. Commissioner (RRA), CGST, Ahmedabad South.
5. The Deputy Commissioner, CGST, Division-VIII-Vegalpur, Ahmedabad South.
6. The Superintendent (Systems), CGST Appeals, Ahmedabad.
7. Guard File.
8. P.A. File

