



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- 20240564SW0000618032

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या File No : GAPPL/ADC/GSTP/2193/2024-APPEAL / १२११ - १६ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-JC- 24 /2024-25**दिनांक Date : **08.05.2024** जारी करने की तारीख Date of Issue : 09.05.2024

श्री आदेश कुमार जैन संयुक्त आयुक्त (अपील) द्वारा पारित

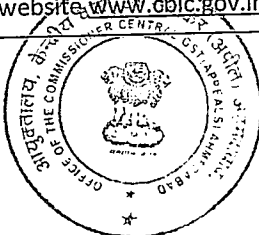
Passed by Shri Adesh Kumar Jain, Joint Commissioner (Appeals)

ग Arising out of Order-in-Original No. 41/WS03/GST/AC/RSC/2023-24 dated 26.12.2023 (FORM GST DRC - 07 ref. no. ZD2401240052808 dated 02.01.2024) issued by the Assistant Commissioner, CGST Division- III, Ahmedabad South Commissionerate.

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

Appellant	Respondent
M/s R K Synthesis Limited, Nr. Pharma Lab, Plot No.341 1/1 And 2, R.K.Synthesis Limited, Phase-IV, GIDC, Vatva, Ahmedabad, Gujarat, 382445	The Assistant Commissioner, CGST Division- III, 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) <b>Full amount of Tax, Interest, Fine, Fee and Penalty</b> arising from the impugned order, as is admitted/accepted by the appellant, and (ii) A sum equal to <b>twenty five per cent</b> 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 <a href="http://www.cbic.gov.in">www.cbic.gov.in</a> 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 <a href="http://www.cbic.gov.in">www.cbic.gov.in</a> .

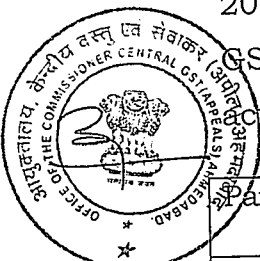


**ORDER-IN-APPEAL**

**BRIEF FACTS OF THE CASE :**

M/s. R. K. Synthesis Limited, Near Pharma Lab, Plot No. 341 1/1 and 2, R. K. Synthesis Limited, Phase-IV, GIDC, Vatva, Ahmedabad, Gujarat-382445 (hereinafter referred to as "the appellant"), holding GST Number 24AAHCR3902J2ZF has filed appeal against Order-In-Original No. ZD2401240052808, dated 02.01.2024 (41/WS03/GST/AC/RSC/2023-24, dated 26.12.2023) (hereinafter referred to as the "impugned order") passed by the Assistant Commissioner, CGST & C.Ex., Division- III, Ahmedabad South Commissionerate (hereinafter referred to as the "adjudicating authority") .

**2(i).** Brief facts of the case in the present appeals are that the appellant is engaged in the taxable supply of Goods/Services under Central GST Act, 2017 and registered with GST department having GSTIN - 24AAHCR3902J2ZF. The audit of the records of the appellant was conducted for the period from July 2017 to March 2018 by Office of the Principal Director, Audit (Central), Ahmedabad on the basis of GSTR-2A and GSTR-3B returns filed during the FY 2017- 18. It was noticed that the appellant has availed/utilized excess ITC in GSTR 3B returns for the period from July, 2017 to March, 2018 than what was actually available to them as per their GSTR 2A returns. The detail is as under:



Particulars	IGST	CGST	SGST	Total
ITC as per GSTR 2A	12891497	35988927	35988927	84869351
ITC as per GSTR 3B	14855779	64478779	64478779	143813337
Excess ITC availed in GSTR 3B (GSTR-3B minus GSTR 2A)	1964282	28489852	28489852	58943986

**2(ii).** On being pointed out the appellant submitted that the said differences occurred in October 2017 by mistake they had taken ITC in an other ITC table of Rs. 6,29,54,014/- instead of Rs. 62,54,149/- and in March 2018 GSTR 3B they adjusted the same by declaring liability. They have also mistakenly shown IGST of Rs. 21,90,831/- on Import of goods ITC in all other ITC table of GSTR 3B. For the F.Y. 2017-18 they had also reversed ITC of Rs. 4,54,773.04/- in the return of Dec 2018. The reply submitted by the appellant was forwarded to Office of the Principal Director, Audit (Central), Ahmedabad, however, it was not found satisfactory by them and the para has been converted into SOF Para No. 10.1, with remarks that Department has not furnished the details of month in which reversal of ITC of IGST on imports of goods of Rs. 21,90,831/- declaring the liability has been made."

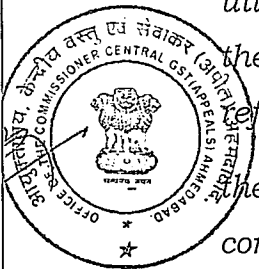
2(iii). In view of the above the appellant is liable to pay the ITC of the IGST availed and utilized of Rs. 21,90,831/- under Section 73(1) of the CGST Act, 2017 alongwith interest under Section 50(1) of the CGST Act 2017 and penalty under Section 73 of the CGST Act, 2017 read with Section 122(2)(a) of the CGST Act 2017. As the appellant has reversed the IGST amount of Rs. 7,29,730/- taken on the Bill of Entry No. 2284338, dated 29.06.2017 vide debit entry dated 03.03.2021 alongwith interest and penalty, the outstanding IGST of Rs. 14,61,101/- is liable to be recovered alongwith interest and penalty.

3. Accordingly, the appellant was issued Show Cause Notice dated 27.09.2023. The said Show Cause Notice has been adjudicated by the adjudicating authority and passed the impugned on the following grounds:

- that the Noticee has contended that the said difference occurred in October 2017 wherein by mistake they had taken ITC in all other ITC table of Rs.6,29,54,014/- instead of Rs.62,54,149/- and in GSTR-3B of March 2018, they adjusted the same by declaring it as liability and reversing the excess ITC taken;
- that the appellant while discharging the tax liability of the excess availed ITC of Rs. 5,66,99,865/- (Rs.6,29,54,014/- minus Rs.62,54,149/-) has utilized the ITC contained in the column of "All other ITC" which includes the ITC of IGST of Rs. 21,90,831/- on the imported goods which also was reflected in the "All Other ITC" column of the concerned month;
- the notice could not produce any details/documents to substantiate their contention that they have reversed the ITC of the IGST of Rs. 21,90,831/- over and above the reversal of all other ITC;
- the appellant is liable to pay the ITC of the IGST availed and utilized of Rs. 21,90,831/-. However the appellant has already reversed the IGST amount of Rs. 7,29,730/-. So they are liable to reversed the ITC availed and utilized on the IGST of import of goods of Rs. 14,61,101/- (Rs. 21,90,831/- minus Rs. 7,29,730/-).

4. Being aggrieved with the impugned order, the appellant preferred this appeal on 04.03.2024 on the following grounds:-

- Input tax credit for the import of goods was not added in column IGST ITC as per GSTR 2A shown in show cause notice also on part of appellant in GSTR 3B due to human error, it was reported in table 4 (A) (5) all other ITC instead of Table 4(A) (1) import of goods of GSTR 3B return of the Fy 2017-



18 resulting it into neutral transaction, Appellant has already submitted bill of entry for import ITC taken in alt other ITC to concerned department; the total IGST Input tax credit for the financial year 2017-18 is as under:

Particular	IGST
1. ITC as per GSTR 3B	14855779
All other ITC [Table 4A(5)]	14855779
2. Less : ITC as per GSTR 2A/Tax liabilities and comparison	14343609
*All other ITC [Net Purchase]	12882972
*ITC for import of good	1460637
Difference	512170
DRC 03 dated 03.03.2021 [ARN: AD240321C)031910]	765113
Excess ITC claimed to reverse , if any	0

Additional submission:

- That they have submitted copy of ITC register for February 2018 and October 2017, copy of GSTR 3B return for the respective months, Annual GSTR 3B statement and self attested GSTR 2A for F.Y. 2017-18;
- That they also submitted copy of Bill of Entries for which mistakenly ITC has been claimed in "All Other ITC" section instead of "Import of Goods" section;
- That it is merely reporting of ITC in wrong section and due to that benefit of ITC shall not be taken away from appellant.

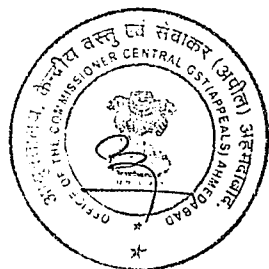
In the view of the above the appellant pray to set aside the 'order' appealed against for demand of input tax credit along with interest and penalty total amounting to Rs. 16,07,211/- and allow the appeal in full.

**Personal Hearing:**

5. The appellant was granted personal hearing on 29.04.2024. Mr. Viral R. Sanghvi, C.A., appeared for hearing in the matter as authorized representative on behalf of the appellant. They submitted that its only issue's ITC on import goods which have been taken with other ITC instead of Import column. Its a mere technical error and no revenue involved. It's for the year 2017-18, initial period of GST implementation and now also it has (import ITC) started showing in GSTR 2A. He further submitted additional submission and reiterated the written submission. Since its only reporting of ITC in different column, therefore the appeal may be allowed.

**iscussion and Findings:**

6. I have carefully gone through the facts of the case available on record and grounds of appeal in the Appeal Memorandum and additional submission provided by the appellant. As the per the impugned order the appellant is liable to pay the ITC of the IGST availed and utilized of Rs. 21,90,831/-. However the appellant has already reversed the IGST amount of Rs. 7,29,730/-



. So the issues to be decided in the present appeal is whether the ITC availed and utilized on the IGST of import of goods of Rs. 14,61,101/- (Rs. 21,90,831/- minus Rs. 7,29,730/-) are liable to be reversed or otherwise?

**7(i).** In the instant case it is observed that the appellant have mistakenly shown IGST of Rs. 21,90,831/- on Import of goods ITC in all other ITC table of GSTR 3B. The reply submitted by the appellant was forwarded to Office of the Principal Director, Audit (Central), Ahmedabad, however, it was not found satisfactory by them and the para has been converted into SOF Para No. 10.1, with remarks that Department has not furnished the details of month in which reversal of ITC of IGST on imports of goods of Rs. 21,90,831/- declaring the liability has been made. Further, the appellant has reversed the IGST amount of Rs. 7,29,730/- taken on the Bill of Entry No. 2284338, dated 29.06.2017 vide debit entry dated 03.03.2021 alongwith interest and penalty and for the outstanding IGST of Rs. 14,61,101/-, they are liable to be recovered alongwith interest and penalty.

**7(ii).** In respect of excess availment of ITC as per reconciliation of GSTR 3B vs GSTR-2A of Rs. 14,61,101/- (IGST), the appellant have submitted that due to human error, Input tax credit for the import of goods was not added in Table 4(A) (1) import of goods of GSTR 3B return of the Fy 2017-18, however, it was reported in table 4 (A) (5) all other ITC. Further, with respect to tax credit of Rs. 14,60,637/- availed in respect of Imported goods the appellant has provided the copy of Bill of entries, as listed hereunder:

Sl.No.	Bill of Entry No. and period	ITC (Rs.)
01	3052573, October 17	6,11,168
02	3083772, December 17	5,67,060
03	4101121, February 2018	2,82,409
	Total.	14,60,637

**8.** Further after going through the Annual GSTR 3B statement and self attested GSTR 2A for F.Y. 2017-18, submitted by the appellant, the calculation of difference of ITC availed between GSTR 2A and GSTR 3B is as under:

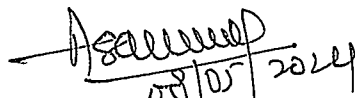
Particulars	IGST
ITC as per GSTR 2A (without ITC for import of good)	1,28,82,933
ITC as per GSTR 3B (with ITC for import of goods)	1,48,55,779
Excess ITC availed in GSTR 3B (GSTR-3B minus GSTR 2A)	19,72,846

Out of excess ITC availed in GSTR 3B of Rs. 19,72,846/-, the appellant has reversed the IGST amount of Rs. 7,65,113/- taken on the Bill of Entry No. 2284338, dated 29.06.2017 vide debit entry dated 03.03.2021 alongwith

interest and penalty. Accordingly, the outstanding IGST amounting, after reversed the IGST amount of Rs. 7,65,113/-, IGST comes to Rs. 12,07,733/-. Further, as regards copies of Bills of Entry submitted by the appellant, the ITC availed of Rs.14,60,637/- in respect of imported goods, it is observed that the amount of outstanding excess availment of ITC of IGST during the year July 2017 to March 2018 is Rs. 12,07,733/- and the appellant has produced certified copies of Bills of Entry as in the table shown above for Rs. 14,60,637/- and during the relevant period being initial phase of implementation of GST, Bill of Entries were not auto populated in GSTR-2A, therefore I allow the credit of ITC of Rs.14,60,637/- against the demand arises of Rs. 12,07,733/- of IGST.

9. In view of above discussions, I find that the impugned order is not legal and proper and therefore, require to be set aside. Accordingly, the appeal filed by the 'appellant' is allowed.

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.

  
(Adesh Kumar Jain)

Joint Commissioner (Appeals)

Date: .05.2024

Attested

(Sandheer Kumar)  
Superintendent (Appeals)

By R.P.A.D.

To,  
M/s. R. K. Synthesis Limited,  
Near Pharma Lab, Plot No. 341 1/1 and 2,  
R. K. Synthesis Limited, Phase-IV, GIDC,  
Vatva, Ahmedabad, Gujarat-382445.

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 Commissionerate.
4. The Dy./Assistant Commissioner(RRA), CGST, Ahmedabad South Commissionerate.
5. The Assistant Commissioner, CGST, Division- III, Ahmedabad South Commissionerate.
6. The Superintendent (Systems), CGST Appeals, Ahmedabad.
7. Guard File.
8. P.A. File.

