



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- 20240564SW000091439D

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या File No : GAPPL/ADC/GSTD/310/2024-APPEAL

15531-37

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-JC- 28 /2024-25**

दिनांक **Date :15.05.2024** जारी करने की तारीख Date of Issue : 15.05.2024

श्री आदेश कुमार जैन संयुक्त आयुक्त (अपील) द्वारा पारित

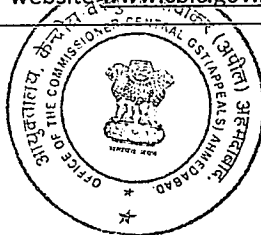
Passed by Shri Adesh Kumar Jain, Joint Commissioner (Appeals)

ग Arising out of Order-in-Original No. MP/GST/01/SUPERINTENDENT/AR-II/23-24 dated 13.07.2023 issued by The Superintendent, CGST AR-II, Division- IV, Ahmedabad South Commissionerate.

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

Appellant	Respondent
The Assistant Commissioner, CGST, Division – IV, Ahmedabad South Commissionerate	M/s. Reliance Barrel Supply Co. (Legal Name : Asif Jawrawala), 200/34, B/H Kashiram Textile Mill, Narol, Ahmedbad-382405

(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 .



अपीलिय आदेश/ ORDER-IN-APPEAL

The Assistant Commissioner, CGST Division-IV, Ahmedabad South. (hereinafter referred to as the appellant) in terms of Review Order No. 35/2023-24 dated 11.01.2024, issued under Section 107 of the CGST Act, 2017, has filed the present appeal offline in terms of Advisory No.9/2020 dated 24.09.2020 issued by the Additional Director General (Systems), Bengaluru. The appeal is filed on dated 24.01.2024 against OIO No.MP/GST/01/Superintendent/AR-II/23-24 dated 13.07.2023 (hereinafter referred to as the impugned order) passed by the Superintendent, AR-II CGST, Division-IV, Ahmedabad South dropping demand of Rs.2,27,224/- to M/s. Reliance Barrel Supply Co., (Legal Name M/s. Asif Jawrawala) 200/34, B/h Kashiram Textile Mill, Narol Ahmedabad 382405 (hereinafter referred to as 'the Respondent').

2. The respondent is registered under GSTN No.24ACLPJ1362^{R127} are engaged in supply of goods of Articles for the conveyance or packing of goods, of plastics etc, petroleum oils and oils obtained from Bituminous Minerals, Other than Crude. During review of OIO No. MP/GST/01/Superintendent/AR-II/23-24 dated 13.07.2023, it is noticed that the adjudicating authority had dropped a demand of Rs.2,27,224/-. As per GSTR-2A, the respondent had received certain supplies involving Goods and Services tax of Rs.2,27,224/- that was required to be paid under reverse charge mechanism, however as the respondent claimed that as they had not availed any input tax credit in respect of such supplies, there is no tax liability under RCM pending against them, the adjudicating authority vide his impugned order dropped the said demand under Section 75(13) of the CGST Act, 2017. Thus, the demand of Rs.2,27,224/- is required to be recovered along with interest and penalty. Being aggrieved with the impugned order, the Deptt. appellant preferred appeal before the appellate authority on 24.01.2024 on the following grounds of appeal:

(a) The liability of RCM tax of Rs.2,27,224/- was quantified in respect of specified taxable supplies received by the respondent as observed from GSTR-2A, generated by the system for the relevant period of FY 2017-18. It is not the case that the supplies referred to in the said GSTR 2A were not received or that the supplier had wrongly mentioned his outward supply details in their GSTR-1. Therefore in terms of Section 9(3) of the CGST Act, 2017 the respondent was liable for paying tax in relation to such supplies covered under RCM and quantified as per GSTR-2A. The conclusion arrived at in the OIO that they are not required to pay any taxes for the RCM supplies mentioned in their GSTR-

2A return as they had not availed any ITC for these supplies is not correct or legal.

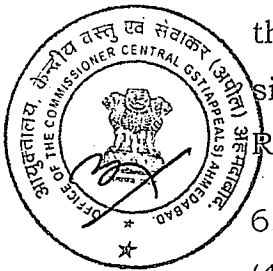
PERSONAL HEARING

4. Personal hearings in the matter was scheduled on 09.04.2024, 18.04.2024, 29.04.2024 and 15.05.2024, and emailed to the appellant in the registered email address furnished in their appeal. Apart from which, hard copy of the PH communication letters were despatched and send by Speed Post also. As per the tracking numbers, the status of these letters are shown as delivered by the postal department. However no representative from the respondent's side had replied to the personal hearing letter, and neither appeared nor sought for any adjournments. Accordingly, I am left with no other option except for deciding the case ex-parte, based on the facts available on record.

Discussion & Findings

5. I have carefully gone through the facts of the case, grounds of appeal, submissions made by the respondent and documents available on record. I find that the subject appeal was filed to set aside the impugned order vide which the adjudicating authority has dropped the demand of Rs.2,27,224/- quantified in respect of specified taxable supplies received under RCM by the respondent as observed from GSTR-2A, generated by the system for the relevant period of FY 2017-18,. The adjudicating authority has held that since the GSTR2A is created automatically on the basis of GSTR-1 returns filed by their suppliers, the tax payer has no control over the GSTR2A returns and since the tax payer has not availed any ITC for the said supplies shown under RCM in GSTR-2A, they are not required to pay any taxes for the RCM supplies.

6. I observe that the respondent did not show up inspite of providing four (4) opportunities of personal hearing which were emailed to the appellant to their registered email address furnished in their appeal. Apart from which, hard copy of the PH communication letters were despatched and send by Speed Post also. As per the tracking numbers, the status of these letters, are shown as delivered by the postal department. However no representative from the respondent's side had replied to the personal hearing letters and neither appeared nor sought for any adjournments. They have neither submitted any reply in their defense nor appeared in person to explain their stand. I also observed that the details and copies of the departmental appeal were communicated to the appellant vide this office letter dated 13.03.2024 which was emailed on the same day as well despatched through speed post on 15.03.2024 and as per the tracking status the communication was delivered



On 16.03.2024 to the appellant. However, the reason of the appellant being unresponsive is unknown. Accordingly, I proceed to decide the case based on the available facts.

7. The term "supply" as given in Section 7 of the CGST Act, 2017 and the Section 9 thereof governs the levy and the collection CGST tax. The sub section (3) of Section 9 specify the categories of supply of goods or services or both, the tax on which shall be paid on Reverse Charge Mechanism (RCM) basis by the recipient of such goods/services or both. Similar provisions exist for the levy and collection of integrated tax, under Section 5 of the IGST Act.

8. Section 2(98) of the CGST Act, 2017 defines reverse charge as "the liability to pay tax by the recipient of specified supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section(4) of Section 9, or under sub-section(3) or sub-section(4) of Section 5 of the IGST Act." Further, Section 9(3) of the CGST Act, 2017 provides for payment of tax which is levied on specified categories of supplies to be paid by the recipient of such supplies who is the person liable for paying tax in relation to such supply.

9. In view of the above facts and discussions of the case, the adjudicating authority's conclusion in dropping the demand of Rs.2,27,224/- is not legal and proper and thus the appeal filed by the Appellant Department is allowed. The demand of Rs.2,27,224/- shall be recovered forthwith along with interest payable as per Section 50 of the CGST Act, 2017 and penalty of Rs.22,722/- @ 10% under Section 73(1) of the CGST Act, 2017 read with corresponding provisions of GGST and IGST Act.

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

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

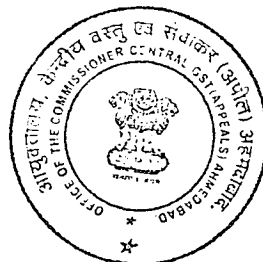
Adesh Kumar Jain
15/05/2024

(Adesh Kumar Jain)
Joint Commissioner (Appeals)

// ATTESTED //

Date: .05.2024

Vijayalakshmi V
(Vijayalakshmi V) 15/5/24
Supdt. (Appeals)
Central Tax
Ahmedabad.



BY RPADBy R.P.A.D.

To,

M/s. Reliance Barrel Supply Co.

Legal Name : Asif Jawrawala

200/34, B/h. Kashiram Textile Mill,

Narol, Ahmedabad Gujarat-382405.

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. Commr., CGST, Division-IV, Ahmedabad South.
5. The Superintendent, ~~AP-II, DIV-IV, Ahmedabad South~~
6. The Superintendent (Systems), CGST Appeals, Ahmedabad.
7. Guard File.
8. P.A. File



