
 सत्यमेव जयते	<b>केंद्रीय कर आयुक्त (अपील)</b> <b>O/O THE COMMISSIONER (APPEALS), CENTRAL TAX,</b> केंद्रीय कर शुल्क भवन, सातवीं मंजिल, पोलिटेक्निक के पास, आम्बावाडी, अहमदाबाद-380015 टेलीफैक्स : 079 - 26305136	 7 <sup>th</sup> Floor, Central Excise Building, Near Polytechnic, Ambavadi, Ahmedabad-380015 टेलीफैक्स : 079 - 26305136
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क फाइल संख्या : File No : V2(ST)0294/A-II/2016-17

ख अपील आदेश संख्या : Order-In-Appeal No. AHM-EXCUS-001-APP-213-17-18

दिनांक Date : 26-12-2017 जारी करने की तारीख Date of Issue

5/1/2018

श्री उमा शंकर, आयुक्त (अपील) द्वारा पारित

Passed by Shri Uma Shanker Commissioner (Appeals)

ग Arising out of Order-in-Original No STC/Ref/157/Indianic/KMM/AC/D-III/16-17

Dated 30.12.2016 Issued by Assistant Commr STC, Service Tax, Ahmedabad

घ अपीलकर्ता का नाम एवं पता

Name & Address of The Appellants

**M/s. Indianic Infotech Ltd**

**Ahmedabad**

इस अपील आदेश से असंतुष्ट कोई भी व्यक्ति उचित प्राधिकारी को अपील निम्नलिखित प्रकार से कर सकता है:-

Any person aggrieved by this Order-in-Appeal may file an appeal to the appropriate authority in the following way :-

सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण को अपील:-  
Appeal To Customs Central Excise And Service Tax Appellate Tribunal :-

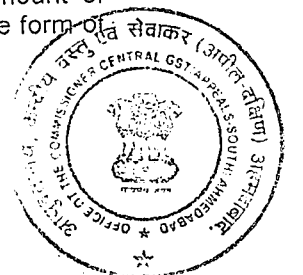
वित्तीय अधिनियम, 1994 की धारा 86 के अंतर्गत अपील को निम्न के पास की जा सकती:-  
Under Section 86 of the Finance Act 1994 an appeal lies to :-

पश्चिम क्षेत्रीय पीठ सीमा शुल्क, उत्पाद शुल्क एवं सेवाकर अपीलीय न्यायाधिकरण ओ. 20, न्यू मेंटल हॉस्पिटल कम्पाउण्ड, मेघानी नगर, अहमदाबाद-380016

The West Regional Bench of Customs, Excise, Service Tax Appellate Tribunal (CESTAT) at O-20, New Mental Hospital Compound, Meghani Nagar, Ahmedabad - 380 016.

(ii) अपीलीय न्यायाधिकरण को वित्तीय अधिनियम, 1994 की धारा 86 (1) के अंतर्गत अपील सेवाकर नियमावली, 1994 के नियम 9 (1) के अंतर्गत निर्धारित फार्म एस.टी- 5 में चार प्रतियों में की जा सकेगी एवं उसके साथ जिस आदेश के विरुद्ध अपील की गई हो उसकी प्रतियाँ भेजी जानी चाहिए (उनमें से एक प्रमाणित प्रति होगी) और साथ में जिस स्थान में न्यायाधिकरण का न्यायपीठ स्थित है, वहाँ के नामित सार्वजनिक क्षेत्र बैंक के न्यायपीठ के सहायक रजिस्ट्रार के नाम से रेखांकित बैंक ड्राफ्ट के रूप में जहाँ सेवाकर की मांग, ब्याज की मांग और लगाया गया जुर्माना रूपए 5 लाख या उससे कम है वहाँ रूपए 1000/- फीस भेजनी होगी। जहाँ सेवाकर की मांग, ब्याज की मांग और लगाया गया जुर्माना रूपए 5 लाख या 50 लाख तक हो तो रूपए 5000/- फीस भेजनी होगी। जहाँ सेवाकर की मांग, ब्याज की मांग और लगाया गया जुर्माना रूपए 50 लाख या उससे ज्यादा है वहाँ रूपए 10000/- फीस भेजनी होगी।

(ii) The appeal under sub section (1) of Section 86 of the Finance Act 1994 to the Appellate Tribunal Shall be filed in quadruplicate in Form S.T.5 as prescribed under Rule 9(1) of the Service Tax Rules 1994 and Shall be accompany ed by a copy of the order appealed against (one of which shall be certified copy) and should be accompanied by a fees of Rs. 1000/- where the amount of service tax & interest demanded & penalty levied of Rs. 5 Lakhs or less, Rs.5000/- where the amount of service tax & interest demanded & penalty levied is more than five lakhs but not exceeding Rs. Fifty Lakhs, Rs.10,000/- where the amount of service tax & interest demanded & penalty levied is more than fifty Lakhs rupees, in the form of





**ORDER IN APPEAL**

These appeals have been filed by M/s Indianic Infotech Ltd. (herein after referred to as the appellants) against the OIO No. STC/Ref/157/Indianic/K.M.Mohadikar/AC/Div-III/16-17 dtd. 30.12.2016 (herein after referred to as the impugned order) passed by the Assistant Commissioner, Division-III, Service Tax, Ahmedabad (herein after referred to as the adjudicating authority).

2. The brief facts of the case are that the appellants, a 100% EOU under kandla Special Economic Zone (KASEZ), were engaged in exporting "Information Technology Software Service". The appellants filed refund claim of Rs.3,30,388/- under the Notification No. 27/2012-CE-(NT) dtd. 18.06.2012 (herein after referred to as the said notification). In the refund claim, the adjudicating authority found that the appellants had not submitted the BRC and therefore were not entitled for refund and accordingly, rejected the refund claim.

3. Being aggrieved by the impugned order, the appellants have filed this appeal on the following grounds:

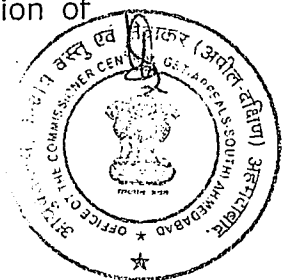
- a) That they receive BRC only when they submit certified SOFTEX copies received from KASEZ with supporting invoices to authorized dealer bank but till date no certified SOFTEX are received from KASEZ and they are in constant follow up;
- b) That they have submitted Foreign Inward Remittance Certificate (FIRC);
- c) That the case may be referred back to the assessing officer as they need additional time for submission of BRC.

4. The personal hearing in the case was held on 01.12.2017 in which Ms. Sonal Jain, Chartered Accountant appeared on behalf of the appellants. She reiterated the grounds of appeal and requested for time to provide BRC.

5. I have carefully perused the documents pertaining to the case and submitted by the appellants along with the appeal. I have considered the arguments made by the appellants in their appeal memorandum as well as oral submissions during personal hearing.

6. I find that the issue to be decided in the instant case is whether the refund claims have been rightly rejected by the adjudicating authority on the ground mentioned in the impugned order.

7. I take up the case of rejection of refund claim of Rs. 3,30,388/- for want of BRC. I find that the appellants have contended to have submitted FIRC against particular exports. There is no doubt that the submission of



BRC is not in appellants' control and the receipt of foreign remittances can be proved with the help of a certificate by a bank or some other such documents. In this case, substantial benefit cannot be denied when a particular detail can be alternately ascertained. For this, I remand the case of rejection of refund claim to the adjudicating authority to allow some time to enable the appellants to submit the bank certificates or any other such documents. In case the details are ascertained, the appeal shall stand allowed.

11. The appeal is disposed off accordingly with consequent relief.

अपीलकर्ता द्वारा दर्ज की गयी अपील का निपटारा उपरोक्त तरीके से किया जाता है !

*उमा शंकर*

(उमा शंकर)

केंद्रीय कर आयुक्त (अपील्स)

अहमदाबाद

दिनांक: 26/12/2017

सत्यापित

*धर्मद्र उपाध्याय*

(धर्मद्र उपाध्याय)

अधीक्षक (अपील्स),

केंद्रीय कर, अहमदाबाद

**By R.P.A.D.**

To:

M/s Idianic Infotech Ltd.,  
B-201, Devark Mall,  
Iscon Circle,  
S.G.Road,  
Ahmedabad-380015

**Copy to:-**

- (1) The Chief Commissioner, CGST, Ahmedabad Zone,
- (2) The Commissioner, CGST, Ahmedabad (South),
- (3) The Dy./Asth. Commissioner, CGST, Div.-VII, Ahmedabad (South),
- (4) The Dy./Asth. Commissioner (Systems), CGST, Ahmedabad (South),
- ✓ (5) Guard File,
- (6) P.A. File.

