



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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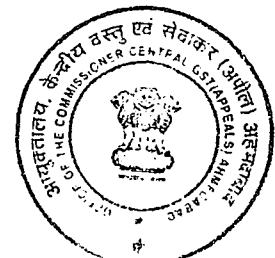


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DIN NO.: 20240264SW0000313991

(क)	फ़ाइल संख्या / File No.	GAPPL/COM/GSTP/37/2023 / 304x - 51
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-EXCUS-001-APP-285/2023-24 and 26.02.2024
(ग)	पारित किया गया / Passed By	श्री ज्ञानचंद जैन, आयुक्त (अपील) Shri Gyan Chand Jain, Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of Issue	28.02.2024
(ङ)	Arising out of Order-In-Original No. 45/CGST/Ahmd-South/JC/MT/2022-23 dated 24.11.2022 passed by The Joint Commissioner, CGST, Ahmedabad South Commissionerate, Ahmedabad.	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Godrej Agrovet Ltd., CFA Shreeji Corporation, Behind Navrang Road Lines, Near Ambica Estate, Aslali, Ahmedabad, Gujarat - 382427

(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 .

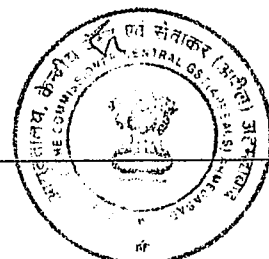


ORDER-IN-APPEAL

The present appeal has been filed by M/s Godrej Agrovet Ltd., CFA Shreeji Corporation, B/h Navrang Roadlines, Near Ambica Estate, Aslali, Ahmedabad-382427 (hereinafter referred to as "the appellant") against Order-in-Original No. 45/CGST/Ahmd-South/JC/MT/2022-23 dated 24.11.2022 (hereinafter referred to as "the impugned order") passed by the Joint Commissioner, Central GST & Excise, Ahmedabad South (hereinafter referred to as "the adjudicating authority").

2. Briefly stated, the facts of the case are that the appellant holding GSTIN 24AAACG0617Q1ZM, filed a TRAN-1 under Section 140 of the CGST Act, 2017 on 28.08.2017, claiming transitional credit of Rs. 2,07,39,124 in their Electronic Credit ledger, inclusive of Rs. 1,87,33,671/- as Cenvat Credit carried forward under Section 140(3), 140(4)(b) and 140(6) and 140(7) of the CGST Act, 2017 as per Entry No. 7A of table 7(a) of Tran-1 and Rs. 20,05,453/- under Section 140(3) and Rule 117 of CGST Act, 2017 as per Entry No. 7B of table 7(a) of Tran-1. The appellant were requested to submit relevant documents in order to ascertain the admissibility and eligibility of their TRAN-1 claim, but the appellant failed to provide them. Consequently, due to non-compliance with the document submission, the appellant were issued DRC-01A dated 08.09.2021 for reversal of credit for the entire claimed amount of Rs. 2,07,39,124/-. Upon further examination, it was found that the appellant did not possess invoices or documents, especially for the claimed Rs. 20,05,453/- under Section 140(3) of the CGST Act, 2017 and Rule 117(4). Subsequently, a Show Cause Notice bearing F.No. CGST/04-18/O & A/Godrej/21-22 dated 29.03.2022 was issued by the Additional Commissioner, CGST, Division-IV for recovery of the credit, penalties, and interest, wherein:

(i) Demand and recovery of Rs. 2,07,39,124/- which includes Rs.



1,87,33,671/- wrongly availed Cenvat Credit carried forward under Section 140(3), 140(4)(b) and 140(6) and 140(7) of the CGST Act, 2017 in Electronic Credit ledger and utilized by the appellant and Rs. 20,05,453/- wrongly availed Cenvat Credit carried forward in Electronic Credit ledger under Section 140(3) and Rule 117 of CGST Act, 2017 under the provision of Section 74(1) of the CGST Act, 2017(hereinafter referred to as 'the Act')read with Rule 121 of the CGST Rules.

(ii) Demand and recovery of interest under Section 50 of the Act.

(iii) Impose penalty under the provisions of Section 74 of the Act.

3. The SCN was adjudicated vide the impugned order wherein the adjudicating authority had passed the order as under:

(i) Out of transitional credit Rs. 1,87,33,671/-, wrongly availed Cenvat Credit Carried forward under Section 140(3), 140(4)(b), 140(6), and 140(7) of the CGST Act, 2017 amounting to Rs. 56,43,709/- was disallowed under provisions of Section 74(9) of the Act, read with the provisions of Rule 121 of the CGST Rules along with interest under section 50(1) of the Act were imposed on the appellant.

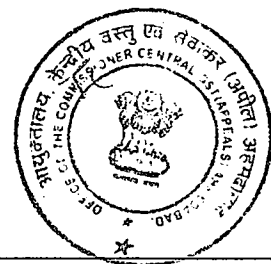
(ii) Wrongly availed Cenvat Credit under Section 140(3) of the Act and Rule 117(4) of CGST Rule, 2017 amounting to Rs. 20,05,453/- was disallowed under provisions of Section 74(9) of the Act, read with the provisions of Rule 121 of the CGST Rules. As the appellant had already reversed Rs. 20,05,453/- the same was ordered to be appropriated. The Appellant was also not imposed any interest on Rs. 20,05,453/- as they did not utilize the same.

(iii) Penalty amounting to Rs. 56,43,709/- and Rs. 20,05,453/- under Section 74(1) of the Act read with the provision of Section 122 (2)(b) of the Act.



4. Being aggrieved with the impugned order passed by the adjudicating authority, the appellant have preferred the present appeal, inter alia, on the following grounds:

- Appellant has manufacturing unit factory in the Union Terr. Jammu and Kashmir. The manufactured goods are sent to mother depot in Punjab after paying excise duty from where goods are dispatched to all branches in India. In addition to this some purchases are made from third party manufacturing unit as well. The appellant has total more than 30 branch all over India. Stock in hand available on 30-06-2017 came across all other branches from India. Mostly stocks are received from Punjab mother depot where excise invoice is available. purchase made by head office Maharashtra after paid Excise Duty and then transfer to different branches all over India, At the branch level appellant has stock transfer invoice which has been received against Statutory Forms (Form F) as stock transfer but same excise documents available at the mother depot at Punjab head officer. So, in particular case there is Two invoice one is Excise Invoice and other is stock transfer Invoice. Assessing officer wrongly taken ground Goods not received in Gujarat but received as stock transfer note from month depot Head office or other branches.
- In respect to Excess credit availed over and above closing stock as on 30.06.2022 the appellant have submitted supporting documents.
- In respect to supporting documents not available, the appellant have furnished copies of the invoice.
- In respect to excess credit due to mismatch in invoice s the appellant have furnished the same.



➤ Verification of SCN cannot be issued in section 73 or 74 of the CGST Act.

5. Personal hearing in the case was held on 18.08.2023. Advocate Shri Pritesh Gandhi appeared for personal hearing and reiterated the submissions in the appeal. He submitted that the appellant had already reversed the credit of Rs. 20,05,453/- which was wrongly availed but not utilized, Therefore, the same is not liable for penalty. Regarding credit of Rs. 56,43,709/- is submitted that the amount of Rs. 44,27,357/- in respect of goods not received in Gujarat state wise stock transfer against form F. The remaining amount was disallowed due to absence of the supporting documents, mismatch in invoice etc. The appellant has submitted all the invoices including stock transfer invoice along with the appeal. Therefore, he requested to set aside the impugned order and allow the appeal.

5.1. Subsequent to the transfer and posting of the Commissioner, the appellant was once again given opportunity for Personal Hearing which was held on 11.12.2023. Advocate Shri Pritesh Gandhi, appeared for personal hearing on behalf of the appellant and reiterated the contents of the oral and written submission made earlier.

6. Para 4.12 of the impugned order mentions that, according to the verification report from the Deputy Commissioner of Central Excise Div.-IV, Ahmedabad South, and based on the documents submitted by the appellant before Deputy Commissioner of Central Excise Div.-IV, Ahmedabad South, it was found that the appellant had incorrectly claimed excess input tax credit of Rs. 56,43,709/-. Out of the total TRAN-1 credit claim of Rs. 1,87,33,671/- as per Entry No. 7A of table 7(a) of Tran-1, only Rs. 1,30,89,962/- was deemed admissible, while the remaining Rs. 56,43,709/- was deemed inadmissible. Consequently, out of Rs. 1,87,33,671/- the appellant was disallowed input tax credit to the extent of Rs. 56,43,709/- by adjudicating authority under Section 74(1) of the

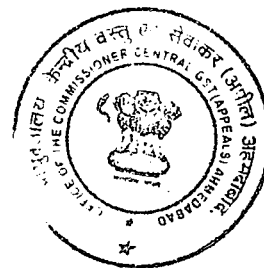


CGST Act, 2017, along with applicable interest as per Section 50 of the CGST Act, which is reproduced as under:

Sr. No.	Category	Credit involved (in Rs.)
1	Excess credit availed over and above closing stock as on 30.06.2022	703899
2	Supporting documents not available/found	380853
3	Goods not received in Gujarat State	4427357
4	Excess Credit due to mismatch in invoice/STN	131600
Total		5643709

6.1 In respect to the input tax credit disallowed for the reason pertaining to sr. no. 1 of the above shown table i.e. excess credit availed over and above closing stock as on 30.06.2022, I find the appellant have nothing submitted in respect of why the credit should not be disallowed, but submitted only purchase invoices, however, this appears to be already provided by the appellant during the time of review at the end of Jurisdictional Deputy Commissioner, Central Tax, Div. -IV, Ahmedabad South and on the lone basis of which the adjudicating authority concluded that the credit amounting to Rs. 7,03,899/- was disallowed. I also agree with the adjudicating authority in terms of disallowance of input tax credit Rs. 7,03,899/- and hence I uphold the order in respect of disallowance of input tax credit for Rs. 7,03,899/- on the ground that the appellant have taken Excess credit over and above closing stock as on 30.06.2022.

6.2. In respect to the input tax credit disallowed for the reason mentioned at sr. no. 2 of the above table, I find that input tax credit for the amount of Rs. 3,80,853/- was verified by the Jurisdictional Deputy Commissioner, Central Tax, Div. -IV, Ahmedabad South and was found inadmissible. The appellant have not given any cogent reason so as to defend with the same.



6.3. In respect to the input tax credit disallowed for the reason mentioned at sr. no. 3 of the above table, I find the appellant contend that they operate a manufacturing unit in Jammu and Kashmir, sending goods to a Punjab depot before distribution to over 30 branches nationwide. Some purchases come from third-party manufacturers, too. Stock in hand as of June 30, 2017, includes goods from all branches, primarily from the Punjab depot with excise invoices. Head office purchases from Maharashtra are also distributed to branches after excise duty payment. Branches receive stock transfer invoices against Statutory Forms (Form F), while excise documents remain at the Punjab depot. They further argue that the adjudicating authority incorrectly assumed goods were not received in Gujarat, but were transferred from the Punjab depot or other branches. In this regard also I find that the Deputy Commissioner verified the same and found inadmissible. The appellant has not given any cogent reason so as to defend with the same.

6.4. In respect to the input tax credit disallowed for the reason pertaining to sr. no. 4 of the above shown table i.e. Excess Credit due to mismatch in invoice/STN, I find the appellant have nothing submitted any ground of counter reply in respect of why the credit should not be disallowed, but submitted only purchase invoices, however, this appears to be already provided by the appellant during the time of review at the end of Jurisdictional Deputy Commissioner, Central Tax, Div. -IV, Ahmedabad South and on the lone basis of which the adjudicating authority concluded that the credit amounting to Rs. 1,31,600/- was disallowed. I also agree with the adjudicating authority in terms of disallowance of input tax credit Rs. 1,31,600/- and hence I uphold the order in respect of disallowance of input tax credit for Rs. 1,31,600/- on the ground that the appellant have taken Excess credit over and above closing stock as on 30.06.2022.



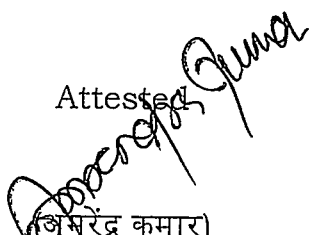
7. Further, I also find that as per the paragraph 4.13 of the impugned order, which states that there was a demand of Rs. 20,05,453/- due to wrongfully availing the cenvat credit for goods declared under 7B of table 7(a) of Tran-1 without submitting procurement documents as prescribed by Rule 117(4)(b)(ii) of the CGST Rules, 2017. The wrongfully availed credit was reversed in the GSTR-3B of June '18, filed on 20.07.2018. Although the credit was incorrectly availed, it was not utilized, thus the appellant was not found liable for interest payment by the adjudicating authority.

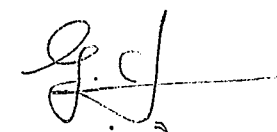
8. I find that the appellant knowingly availed and utilized Input Tax Credit (ITC) which they were not legally entitled to under the CGST Act, 2017, with the intention to evade GST payments. This wrongdoing would have gone unnoticed if not brought up by the officers. Hence, the appellant is also liable to penal action under Section 74(1) of the CGST Act, 2017 read with Section 122(2)(b) of the Act. Therefore no infirmity is found in the impugned order.

9. In view of the above discussion, the order-in-appeal is upheld.

10. अपीलकर्ता द्वारा दायर अपील का निपटान उपरोक्त तरीके से किया जाता है।

The appeal filed by the appellant stands disposed of in above terms.

Attested

 (अनंद कुमार)
 अधीक्षक (अपील्स)
 सी.जी.एस.टी, अहमदाबाद
 By RPAD / SPEED POST


 (ज्ञानचंद जैन)
 आयुक्त (अपील्स)
 Date : 26.02.2024



To,
M/s Godrej Agrovet Ltd.,
CFA Shreeji Corporation,
B/h Navrang Roadlines,
Near Ambica Estate, Aslali,
Ahmedabad-382427

Copy to :

- 1) The Principal Chief Commissioner, Central GST, Ahmedabad Zone
- 2) The Principal Commissioner, CGST, Ahmedabad South
- 3) The Joint Commissioner, Central GST, Ahmedabad South
- 4) The Supdt. (Appeals), CGST, Ahmedabad South
(For uploading the OIA)

- ~~5) Guard File~~
- 6) PA file

