



सत्यमेव जयते

आयुक्तकाकार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeal Ahmedabad Commissionerate
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.
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DIN NO.: 20240364SW000031843B

(क)	फाइल संख्या / File No.	GAPPL/COM/GSTP/35/2023 / 153-77
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-EXCUS-001-APP-297/2023-24 and 29.02.2024
(ग)	पारित किया गया / Passed By	श्री ग्यानचंद जैन, आयुक्त (अपील) Shri Gyan Chand Jain, Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of Issue	06.03.2024
(ङ)	Arising out of Order-In-Original No.25/CGST/Ahmedabadsouth/JC/MT/2022-23 dated 12.10.2022 passed by The Joint Commissioner, CGST & Central Excise, Ahmedabad South Commissionerate, Ahmedabad.	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Cargill India Pvt. Ltd., GDN No. 01, Punjabi Estate, Survey No. 899/1, Mouza-Aslali, Dascori, Ahmedabad - 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 .

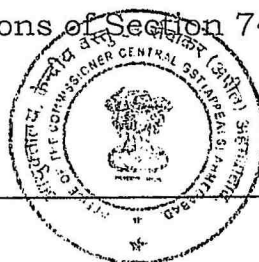


ORDER-IN-APPEAL

The present appeal has been filed by M/s Cargill India Pvt. Ltd. GDN No. 01, Punjabi Estate, Survey No. 899/1, Mouza-Aslali, Dascori, Ahmedabad-382427 (hereinafter referred to as "the appellant") against Order-in-Original No. 25/CGST/Ahmd-South/JC/MT/2022-23 dated 12.10.2022 (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 24AAACC3269J1ZQ, filed a TRAN-1 under Section 140 of the CGST Act, 2017 on 28.08.2017 read with Rule 117 of CGST Rules, 2017, claiming transitional credit of Rs. 1,19,04,179/- in their Electronic Credit ledger, as per Entry No. 7A 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 03.01.2022. Upon further examination, it was found that the appellant did not possess invoices or documents. Subsequently, a Show Cause Notice bearing F.No. CGST/04-24/O & A/Cargil/21-22 dated 23.08.2022 was issued by the Additional Commissioner, CGST, Ahmedabad South for recovery of the credit, penalties, and interest, wherein:

- (i) Demand and recovery of Rs. 1,19,04,179/- wrongly availed Cenvat Credit carried forward and utilized by the appellant 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.



under the invoices, on which excise duty was paid. The appellant has claimed transitional credit for the same. Copies of invoices have been submitted with the appeal. The adjudicating authority has wrongly interpreted the manufacturing under job work as service and has denied the transitional credit. They requested to set aside the impugned order, and to allow the transitional credit

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 12.02.2024. Advocate Shri Rushabh M. Prajapati, and Shri Ankit Jain, Chartered Accountant appeared for personal hearing on behalf of the appellant and reiterated the contents of the written submission. He requested time till 26th February 2024 to make additional submission.

5.2. The appellant have submitted additional documents i.e. POA (Power of Attorney) and signed copy of PH paper via mail on 26.02.2024.

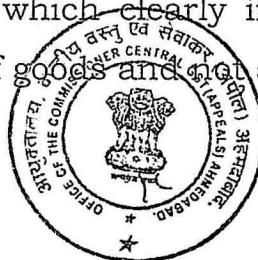
6. The impugned order mentions that, according to the verification report from the Deputy Commissioner of Central Excise Div.-IV, Ahmedabad South, and based on the documents submitted by the appellant before Deputy Commissioner of Central Excise Div.-IV, Ahmedabad South, it was found that out of the total TRAN-1 credit claim of Rs. 1,19,04,179/- as per Entry No. 7A of table 7(a) of Tran-1, only Rs. 1,02,72,960/- was deemed admissible, while the remaining Rs. 16,21,426/- was deemed inadmissible. As such, the appellant had incorrectly claimed input tax credit of Rs. 16,21,426/- (Rs. 16,11,633/- + Rs. 9,793/-). The said disallowed Input Tax Credit includes Rs. 9,793/- which was taken as excess credit in Tran-1 when compared to total claimed as per stock summary and the remaining credit Rs. 16,11,633/- was availed on input service invoices (Job work invoices)



7. The Appellant argues that their company, engaged in manufacturing edible oils, sends aluminum sheets to a job-worker, "M/s Paras Enterprises," who returns finished tin containers. The company availed transitional credit based on invoices for excise duty from the job worker. However, they were wrongly treated, the tin containers supplied by the job worker to the appellant, for which ITC was claimed in Form GST Tran-1, as the supply of input services instead of input goods, leading to disallowance of INR 16,11,633/- in Input Tax Credit under Section 140(3) of the CGST Act.

7.1. The appellant further submitted that before the implementation of GST on July 1, 2017, the appellant contend that the edible oils they supplied were exempt from central excise tax, making them ineligible to claim CENVAT credit on invoices from the job worker charging excise duty. However, with the introduction of GST, the edible oils became taxable, rendering the input tax credit for goods in stock accessible to the company. Consequently, the company claimed input tax credit for tin invoices received from the job worker in Form GST TRAN-1, adhering to relevant GST law provisions. The shift in taxation status from exempt to taxable post-GST implementation allowed the company to avail of the input tax credit on goods.

8. After going through the oral submission on record during personal hearing, written submission filed by the appellant and job work invoice copies issued to M/s Paras Enterprises submitted by the appellant, it appears that the appellant have received job-work for the manufacturing of Tin containers from M/s Paras Enterprises. It is clear that the excise duty is applicable to goods manufactured in India, while service tax applies to services. In this case, I find that the job-worker charges excise duty on the tin containers supplied to the appellant, which clearly indicates that the supply of tin containers is supply of goods and not a service.



9. It is clear that Section 140 allows a registered individual to claim credit in the electronic credit ledger for eligible duties on inputs held in stock, including those in semi-finished or finished goods, on the appointed day, provided they possess invoices or other prescribed documents proving duty payment under the existing law. Additionally, under Section 16(2)(a) of the CGST Act, a registered person can claim input tax credit with a valid tax invoice or debit note from a supplier registered under the Act or other prescribed tax documents. The appellant in this case fulfills the conditions necessary to claim transitional credit on goods in stock, meeting all requirements drawn in the aforementioned sections. Hence, I allow the appellant to take credit of Rs. 16,11,633/-. The credit amounting to Rs. 9,733/- which was taken as excess credit in Tran-1 when compared to total claimed as per stock summary is held liable to be reversed by the appellant with the interest and penalty.

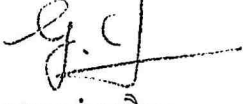
10. In view of the above discussions the order in appeal is passed as under:

10.1. I allow the appeal to the extent of Rs. 16,11,633/-.

10.2. I uphold the demand of Rs. 9,733/- along with interest and equal penalty under section 74(1) of the CGST Act, 2017 read with Section 122(20)(b) of the CGST Act, 2017.

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

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


(ज्ञानचंद जैन)
आयुक्त (अपील्स)
Date : 29.02.2024



Attested

(अभिरुद्र कुमार)

अधीक्षक (अपील्स)

सी.जी.एस.टी,अहमदाबाद

By RPAD / SPEED POST

To,
M/s Cargill India Pvt. Ltd.
GDN No. 01, Punjabi Estate,
Survey No. 899/1, Mouza-Aslali,
Dascori,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



