

RTI APPEAL DETAILS			
RTI Appeal Registration No. :	MSEZH/A/E/20/00003	RTI Appeal Received Date :	03/11/2020
RTI Request Registration No. :	MSEZH/R/E/20/00009	RTI Request Registration Date :	21/09/2020
Name :	HIMANSHU AGRAWAL	Gender :	Male
Address :	B1-2002 CHERRY COUNTY PLOT NO. 5B, TECHZONE-IV, GREATER NOIDA (W)		
Pin Code :	201306		
State :	Uttar Pradesh	Country :	India
Phone :	Details not provided	Mobile No :	+91-9899543502
Email :	himanshumtr86@gmail.com		
Status :	Urban	Educational Status :	Above Graduate
Citizenship :	Indian	Is Appellant below poverty line ? :	No
CPIO of Public Authority Approached :	27090	CPIO's Order/Decision Date :	Details not provided
CPIO's Order/Decision No. :	Details not provided		
Ground For Appeal :	Provided Incomplete, Misleading or False Information		
Text of RTI First Appeal :	Please refer attached appeal document.		

To,
Shri Vikas Pal, IRS
Deputy Commissioner of Customs,
MEPZ-SEZ
N.H. 45, Tambaram,
Chennai-600045

Sub: Appeal against RTI – MSEZH/R/E/20/00009 dated 21.09.2020 replied on 20.10.2020

CPIO – Mr. Balasubramaniyam S, Assistant Development Commissioner

Dear Sir,

The reply to the RTI which is subject to present appeal has been attached for your reference.

The information sought through the RTI application under RTI Act, 2005 was who is the proper officer to sign the endorsement for procurement of goods/services from DTA in order to claim the refund of IGST paid by the supplier.

The CGST Rules 2017 which specifically governs the IGST refund has prescribed the endorsement signed by Specified Officer of Zone as the mandatory document for claiming the refund of IGST by the supplier located in DTA. However, certain SEZs are insisting to signing by Authorized Officer instead of Specified officer which is being rejected by the GST officers while adjudicating the refund claim as CGS rules specifically mentions about Specified Officer.

In order to get clarity, I have filed RTIs to multiple SEZs like Noida SEZ, Cochin SEZ etc including MEPZ. It is to be noted that Noida and Cochin SEZ has replied to the RTI applications that for claiming the refund of IGST by the supplier of DTA endorsement should be signed by the Specified Officer of the Zone as it has been specifically mentioned under GST Laws while for the purpose of SEZ rules it may be signed by Authorized officer only. However, the response from MEPZ is not satisfactory, vague and confusing resulting in this appeal.

Under the reply it has been admitted that CGST Rules specifies for endorsement by Specified Officer however according to Section 51 of SEZ Act, 2005 the provisions of SEZ Act have an overriding effect therefore endorsement by Authorized officer is sufficient. Moreover, it has been mentioned that in the meeting held on 30.08.2019 at O/o Development Commissioner, MEPZ SEZ with the Authorized officers of all SEZs, the Development Commissioner has delegated the powers of endorsement to Authorized officers for both supplies of goods and services vide para 6 of MOM of the meeting.

Following are the grounds for appeal:-

1. SEZ Act was framed at the time where GST Laws were not in place. Therefore the very purpose of endorsement mentioned under SEZ rules is only for the SEZ jurisdiction and not for the purpose of claiming refund of IGST paid by the supplier.
2. Section 51 of SEZ Act 2005 overrules the provisions of any other law that were in force at that time and not framed thereafter. It reads as "The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act ." Therefore, Section 51 cannot be said to overrule CGST Act or rules. If this would have been the case the legislators would not have mentioned it specifically under the CGST Rules.
3. Without prejudice to above, even if Section 51 of SEZ Act 2005 overrules GST Laws why the Development Commissioner have delegated the powers to Authorized Officers. Therefore, somewhere it is accepted that SO is authorized to sign the endorsement.
4. It has been mentioned that power to issue endorsement has been delegated to Authorized Officers as per Para 6 of the MOM held on 30.08.3019. It is very surprising to see the copy of MOM annexed with the reply wherein it has been mentioned that endorsement by AO is sufficient and **a Circular will be issued soon**. In case, GST authorities insist for such endorsements by SO of the zone, appropriate decision can be taken then. As of now no circular has been issued by Development Commissioner in this regard and hence not provided to me.

The point is holding a meeting and delegating the power without issuance of any Circular is in itself unjust, arbitrary and void. There should have been one and single provision or guidance within MEPZ SEZ so that the suppliers of DTA do not face any challenge while claiming IGST refund as it is very time consuming to obtain endorsement in SEZ and processing of refund claim.

Multiple contentions held in the reply (i) SEZ Act overrules CGST Act, (ii) DC has delegated the powers to AO in the meeting without issuance of Circular, (iii) If GST authorities insist it should be decided then should be removed and proper information should be provided whether AO or SO is authorized to sign endorsement for claiming refund of IGST paid by the DTA suppliers. If the answer is AO, proper authentic document should have been provided to the appellant.

Regards,

Himanshu Agrawal

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Date: 03.11.2020