

GIB/Jaipur/Shri Kalyan/13.01.2020/AA-1**Appellate Authority Category :** REFUND**State :** Rajasthan**Order No.:** GIB/Jaipur/Shri Kalyan/13.01.2020/AA-1**Name of Entry :**
Shri Kalyan Exports**Date :** 13-01-2020**Breif Issue :****Facts & Issue of The Case:**

The applicant Shri Kalyan Exports is in business of export of goods. He had filed a refund application in prescribed form RFD-01A vide ARN AB08717488409D, dated 04-06-2018 amounting Rs.1,63,210 for refund of unutilized ITC on exports of goods and services without payment of IGST. On Receiving the said application, the Assistant Commissioner issued a deficiency memo (RFD-03) on 15-06-2018 against which applicant submitted reply on 1-07-2018. The said claim was also sent to jurisdictional range officer on 18-07-2018.

A verification report through C.No. V(CGST)R-VIII/Refund-KE/3/2018 on 26-07-2018 was submitted by the jurisdictional range officer to the Assistant Commissioner. On the basis of the verification report and records available the Assistant Commissioner issued a SCN RFD-08 V(CGST-B)47/RFD-ITC/Kalyan/18-19/4631 on 10-08-2018 to reply on “why the refund claim of Rs.163210 cannot be rejected on below mentioned reasons:

Reason for Rejection	Amount inadmissible (Rs.)
Undeclared Place of Business	1,63,210/-

The appellant in response to SCN filed a written reply on 10-09-2018 stating that the registered place of business and place which is mentioned in export invoices (undeclared address) are owned by him. He also gave clarification that undeclared place of business was not updated on portal due to some omission errors and he has already filed an application on 05-09-2018 for addition of the undeclared place of business as an additional place of business on GST portal.

The Assistant Commissioner rejected the refund claim vide OIO No.

29/GST/ITC/Kalyan/2018-19 on 12-09-2018 on the ground that the appellant carried out business activity from an undeclared place of business and issued improper tax invoices showing undeclared address

The applicant being aggrieved with the impugned order, further filed appeal before Additional Commissioner (Appeals) vide C. No. APPL/JPR/CGST/JP/39/XII/18.

Decision of Advance Ruling Authority :

Decision

It was held by the Additional Commissioner (Appeals) that:

- As per Section 2(85) “Place of Business” and Section 2(89) “Principal Place of Business” a supplier or recipient under GST have to make supplies from/to a defined place which could be principal place of business or place of business or place of usual residence.
- As per Rule.18 of CGST Rules,2017 a registered person has to display copy of registration certificate at location for which registration has been issued
- Rule 46(a) of CGST Rules,2017 required that tax invoice shall be issued by the registered person containing name, address and GSTIN of the supplier of goods or services or both
- Applicant has made supplies from the undeclared place and thus invoice issued from that address cannot be treated as legal and proper tax invoice.
- Due to improper tax invoice refund is not admissible as per Rule 89 of CGST Rules
- The applicant had made application for addition of undeclared place of business as mentioned on invoice after SCN issued by the department which shows that applicant concealed the activity from the department and carried out business activity from undeclared place of business.

Hence, the appeal was disposed off on above grounds.