



सत्यमेव जयते

आयुक्त का कार्यालय
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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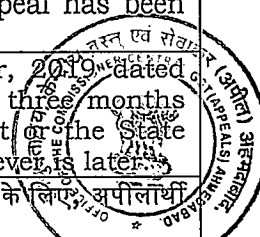


By Regd. Post

DIN NO. : 20221264SW000066106D

(क)	फ़ाइल संख्या / File No.	GAPPL/ADC/GSTP/1901/2022 / 5514 - 22
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-003-APP-ADC-62/2022-23, dtd 29.11.2022
(ग)	पारित किया गया / Passed By	श्री मिहिर रायका, संयुक्त आयुक्त अपील Shri Mihir Rayka, Additional Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of issue	30.11.2022
(ङ)	Arising out of Order-in-Original No. ZA241219103673Q dated 30.12.2019 issued by Superintendent of CGST, Central GST, Range-II, Division- Gandhinagar, Gandhinagar Commissionerate.	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s. Vipulkumar Natvarlal Patel (Trade Name: M/s. Jeeya Enterprise) (GSTIN - 24AJGPP4362D2ZD) Address : Basement, B 19, Vijay Shopping Centre, Opp. Hotel Haveli, Sector - 11, Gandhinagar, Gujarat - 382 011

(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 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 ::

M/s Vipulkumar Natvarlal Patel (GSTIN-24AJGPP4362D2ZD] (Trade Name : Jeeya Enterprise), Basement, B 19, Vijay Shopping Center, Opp. Hotel Haveli, Sector - 11, Gandhinagar, Gujarat-382011 (hereinafter referred to as the 'appellant') has filed present appeal against Order for Cancellation of Registration bearing Reference No. ZA241219103673Q dated 30.12.2019 (hereinafter referred to as 'impugned order'), issued by the Superintendent, Central GST, Range-II, Division-Gandhinagar, Gandhinagar Commissionerate (hereinafter referred to as 'adjudicating authority/proper officer').

2. The brief facts of the case are that appellant was registered under GST, having registration number as 24AJGPP4362D2ZD. The appellant was issued a show cause notice on 20.12.2019 asking that "your registration is liable to be cancelled for the following reason : Any Taxpayer other than composition taxpayer has not filed returns for a continuous period of six months." Subsequently, the GST registration was cancelled by the Superintendent, Central GST, Range-II, Division- Gandhinagar, Gandhinagar Commissionerate vide impugned order dated 30.12.2019 citing the following reasons:- "Last return filed January-2018, no further return filed hence registration is cancelled." The effective date of cancellation of GST registration was 30.12.2019.

3. Being aggrieved, the appellant filed the present appeal on **28.06.2022**, against the impugned order, *inter alia*, contending that:-

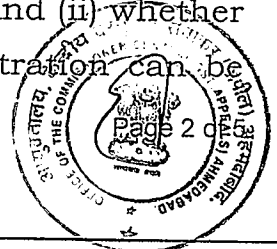
- (i) no bad intention to erred any tax liability;
- (ii) due to unavailability of accountant of firm and COVID pandemic, they were unable to file returns;
- (iii) the time limit under section 30 (1) and Rule 23(1) of CGST Act was expired (i.e within thirty days from the date of service of the cancellation order), they are not able to apply to proper officer for revocation of cancellation of the registration;

Personal Hearing

4. Personal hearing in the case was held on 23.11.2022. Shri Hemal Kansara, Authorized Representative appeared before the appellate authority on behalf of the appellant, he submitted that they have nothing more to add to their written submission till date.

Discussion & Findings

5. I have gone through the facts of the case, the impugned order and the grounds of appeal as well as written submissions of the appellant. I find that the main issue to be decided in the instant case is (i) whether the appeal has been filed within the prescribed time limit; and (ii) whether the appeal filed against the order of cancellation of registration can be



considered for revocation / restoration of cancelled registration by the proper officer. I find that the impugned order was issued on 30.12.2019 by the adjudicating authority and the said order was also communicated to them on the same day of 30.12.2019. It is further observed that the appellant has filed the present appeal on **28.06.2022**.

6. I further find it relevant to go through the relevant statutory provisions of Section 107 of the CGST Act, 2017, which is reproduced as under:

SECTION 107. Appeals to Appellate Authority. — (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed **within three months** from the date on which the said decision or order is communicated to such person.

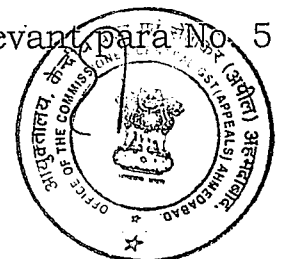
(2)

(3)

(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of **one month**."

6.1 Accordingly, I observed that the Appellant was required to file appeal within 3 months from the receipt of the "impugned order" i.e. on or before 29.03.2020, as stipulated under Section 107(1) of the Act. However, in the instant case the appellant filed the present appeal on **28.06.2022** i.e after a period of more than two years and three months from the due date. Further, I also find that in terms of provisions of Section 107(4) *ibid*, the appellate authority has powers to condone delay of one month in filing of appeal i.e. up to 29.04.2020, over and above the prescribed period of three months as mentioned above, if sufficient cause is shown. Accordingly, I find that there is an inordinate delay of more than two years and three months in filing the appeal over and above the normal period of three months. Thus, appeal filed beyond the time limit prescribed under Section 107(1) *ibid* cannot be entertained.

6.2 Further, I also find that the Hon'ble Supreme Court has passed order on 10.01.2022 in the matter of Miscellaneous Application No. 21 of 2022 in MA 665/2021, in SMW(C) No. 3 of 2020. The relevant para No. 5 (I) & 5 (III) of said order is reproduced as under:



5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21 of 2022 with the following directions:

I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.

II.

III In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

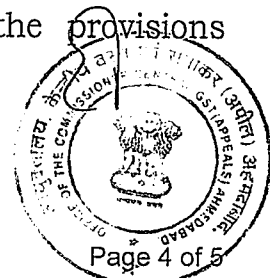
6.3 Further, I also find that the CBIC, New Delhi has issued Circular No. 157/13/2021-GST dated 20th July, 2021 and clarified as under:-

4(c) Appeals by taxpayers/ tax authorities against any quasi-judicial order:-

Wherever any appeal is required to be filed before Joint/ Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where a proceeding for revision or rectification of any order is required to be undertaken, the time line for the same would stand extended as per the Hon'ble Supreme Court's order.

5. In other words, the extension of timelines granted by Hon'ble Supreme Court vide its Order dated 27.04.2021 is applicable in respect of any appeal which is required to be filed before Joint/ Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where proceeding for revision or rectification of any order is required to be undertaken, and is not applicable to any other proceedings under GST Laws.

7. Looking to the above, I find in the present case that the period of limitation considering the 90 days from 01.03.2022 as per the Hon'ble Supreme Court's order dated 10.01.2022 excluding the period from 15.3.2020 to 28.02.2022, the period for filing of the present appeal is **expired on 29.05.2022**, hence, the present case would not be eligible for the relaxation / extension granted by the Hon'ble Supreme Court in respect of period(s) of limitation as mentioned above from the date on which the said decision or impugned is communicated to such person. Accordingly, I find that the further proceedings in case of the present appeal can be taken up for consideration strictly as per the provisions contained in the CGST Act, 2017.



8. Thus, I find that the appeal filed by the appellant is required to be dismissed on the grounds of limitation as not filed within the prescribed time limit in terms of the H'ble Supreme Court's order dated 10.01.2022 and provisions of Section 107 of the CGST Act, 2017. I do not find any reason to interfere with the decision taken by the adjudicating authority vide "impugned order". I, accordingly, reject the present appeal filed by the appellant on time limitation factor.

9. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।
The appeals filed by the appellants stand disposed of in above terms.

(Signature)
29/11/22

(Mihir G Rayka)
Additional Commissioner (Appeals)

Date: 29.11.2022

Attested

(Signature)
30/11/22

(Tejas J Mistry)
Superintendent
Central Tax (Appeals)
Ahmedabad



By R.P.A.D.

To

M/s. Vipulkumar Natvarlal Patel (GSTIN-24AJGPP4362D2ZD)

(Trade Name : M/s. Jeeya Enterprise)

Address : Basement, B 19, Vijay Shopping Center, Opp. Hotel Haveli,
Sector - 11, Gandhinagar, Gujarat-382011

Copy to:

1. The Principal Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner, CGST & C. Excise, Appeals, Ahmedabad.
3. The Commissioner, Central GST & C. Ex., G'nagar Commissionerate.
4. The Deputy/Assistant Commissioner, CGST & C. Ex, Division-Kalol, Gandhinagar Commissionerate.
5. The Superintendent, CGST & C.Ex., Range-II, Division - Gandhinagar, Gandhinagar Commissionerate.
6. The Additional Commissioner, Central Tax (System), G'nagar Comm'te.
7. The Superintendent (Systems), CGST Appeals, Ahmedabad, for publication of the OIA on website.
8. The Superintendent (CPC) (PCCO), CGST Ahmedabad Zone, Ahmedabad.
9. Guard File.
10. P A File.

