



सत्यमेव जयते

आयुक्त(अपील)काकार्यालय,
Office of the Commissioner (Appeal),
केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद
Central GST, Appeal Commissionerate, Ahmedabad
जीएसटी भवन, राजस्व मार्ग, अम्बावाडी अहमदाबाद ३८००१५
CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015
0792630506- टेलिफैक्स07926305136



DIN NO. : 20221264SW000000ED4E

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/3348/2022 / 6632 - 40

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-003-APP-ADC-73/2022-23**
दिनांक Date : 29-12-2022 जारी करने की तारीख Date of Issue : 29-12-2022

श्री मिहिर रायका अपर आयुक्त (अपील) द्वारा पारित
Passed by Shri Mihir Rayka, Additional Commissioner (Appeals)

ग Arising out of Order-in-Original No **ZA240722089514F** dated **18.07.2022** issued by the Superintendent, Central Goods and Service Tax, Range-I, Division Himatnagar, Gandhinagar Commissionerate

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant

M/s Ritaben Kalpeshbhai Patel [GSTIN: 24GGPPP1740H1Z6]
(Trade Name: M/s Safal Pharmacy) Second Floor,
M/L No. -10122238/99, Shop No. 234, Shivam Spacelink,
NH-8, Himatnagar to Shamlaji Road, Motipura, Himatnagar,
Sabarkantha, Gujarat - 383001

(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) <u>Full amount of Tax, Interest, Fine, Fee and Penalty</u> arising from the impugned order, as is admitted/accepted by the appellant, and (ii) A sum equal to <u>twenty five per cent</u> 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 ::

M/s Ritaben Kalpeshbhai Patel [GSTIN-24GGPPP1740H1Z6], (Trade Name : M/s. Safal Pharmacy), Second Floor, M/L No. -10122238/99, Shop No. 234, Shivam Spacelink, NH-8 Himatnagar to Shamlaji Road, Motipura, Himatnagar, Sabarkantha, Gujarat-383001 (hereinafter referred to as 'appellant') has filed present appeal on 3.11.2022 being aggrieved against Order for Cancellation of Registration No. ZA240722089514F dated 18.07.2022 (hereinafter referred to as "impugned order") passed by the Superintendent, CGST, Range-I, Himatnagar, Division-Himatnagar, 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 24GGPPP1740H1Z6. The appellant was issued a show cause notice on 07.07.2022 asking "Whereas on the basis of information which has come my notice, it appears that your registration is liable to be cancelled for the following reasons:

1. Non compliance of any specified provisions in the GST Act or the Rules made thereunder as may be prescribed"

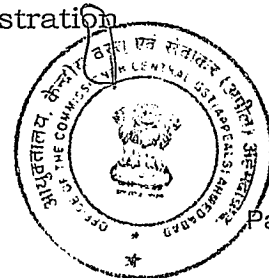
Please note that your registration stands suspended with effect from 07/07/2022."

Subsequently, the Superintendent, Central GST, Range-I, Himatnagar, Division - Himatnagar, Gandhinagar Commissionerate, has passed the impugned order citing the following reasons:- "The taxpayer has not completed compliance of Rule of 10a of the CGST Rules, 2017."

The effective date of cancellation of your registration is 01.07.2022.

3. Being aggrieved, the appellant filed the present appeal on 3.11.2022, against the impugned order, *inter-alia*, contending that:-

- (i) Cancellation of Registration for incorrect reason and they are unable to file application for revocation of cancelled registration because of time limit of 90 days has expired.
- (ii) They bear panic situation as they have already been completed compliance under Rule 10A of the CGST Rules, 2017 within the time limit as prescribed.
- (iii) The appellant has already complied under Rule 10A of CGST Rules within time limit as prescribed.
- (iv) request for revocation of cancelled GST registration



Personal Hearing

4. Personal hearing in the case was held on 28.12.2022. Shri Vishnu Patel, Chartered Accountant & Authorized Representative of the appellant appeared on behalf of the appellant and they have nothing more to add to their written submissions till date.

Discussion & Findings

5. I have gone through the facts of the case, available records and the written submissions made by the appellant. Before deciding the matter it is to be verified whether the appeal has been filed within the prescribed time- limit or not.

The relevant statutory provisions are reproduced as under:

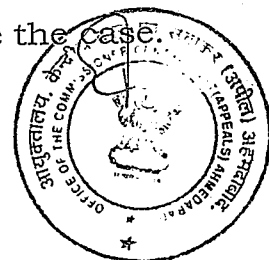
SECTION 107. Appeals to Appellate Authority. — (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within 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. I observed that in the instant case the appeal has been filed by the appellant on 3.11.2022 being aggrieved against the impugned order dated 18.07.2022. Therefore, the appellant is required to file the present appeal on or before 18.10.2022, hence, appeal is filed beyond the normal period of three months under Section 107(1) of the CGST Act, 2017. Further, the appellant has requested for condonation of delay (COD) for further period of one month under Section 107(4) by stating that they have not seen SCN and impugned order of cancellation of registration due to non-checking of their mail-id on regular basis. The reason given by the appellant for condonation is not sufficient cause, however looking to the interest of revenue and government exchequer I am inclined to condone the delay of 16 days in the present appeal and find this appeal is filed within time limit as prescribed under Section 107(1) & 107(4) of the CGST Act, 2017. Accordingly, I am proceeded to decide the case.



7. In the present matter, I find that the appellant had obtained registration under the CGST Act, 2017 but not complied the condition under the Rule 10A of the CGST Rules, 2017. Therefore, the appellant's registration was cancelled under provision of Section 29(2) of the Central Goods and Service Tax Act, 2017 (hereinafter referred to as 'CGST Act'), on *suo moto* basis by the jurisdictional proper officer, vide the 'impugned order'. Further, I refer to the Rule 10A of the CGST Rules, 2017:

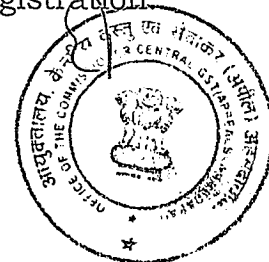
Rule 10A of CGST Rules, 2017:

"10A : Furnishing of Bank Account Details

After a certificate of registration in FORM GST REG-06 has been made available on the common portal and a Goods and Services Tax Identification Number has been assigned, the registered person, except those who have been granted registration under rule 12 or, as the case may be rule 16, shall as soon as may be, but not later than forty-five days from the date of grant of registration or the date on which the return required under section 39 is due to be furnished, whichever is earlier, furnish information with respect to details of bank account, which is in the name of registered person and obtained on Permanent Account Number of the registered person or any other information, as may be required on the common portal in order to comply with any other provision:

PROVIDED that in case of a proprietorship concern, the Permanent Account Number of the proprietor shall also be linked with the Aadhaar number of the proprietor."

7.1 I have carefully gone through the case, available records and written submission of the appellant. The appellant got GST registration in the FORM GST REG-06 on 3.11.2011 and as per Rule 10A of CGST Rules, 2017, the appellant required to furnish Bank Account Details within 45 days from the date of grant of registration i.e on or before 18.12.2021. I find that the appellant has been allotted their GST registration on 3.11.2021 in the Form GST REG-06 and thereafter they have been made application in Form GST REG-14 to update their Bank Account details vide ARN No. AA241121067422S dated 25.11.2021. I find that the appellant has furnished screen shot of the common portal on which they have furnished the bank details within 45 days of the registration i.e on or before 18.12.2021, which shows that they have made compliance within time limit as required and stipulated under the CGST Rules, 2017. Thus I find no reason for cancellation of GST Registration.



8. Looking into facts of the case, I find it germane to refer the provisions of revocation of cancellation of registration. The relevant Section 30 of the CGST Act, 2017 and Rule 23 of the CGST Rules, 2017 are reproduced as under;

Section 30: Revocation of cancellation of registration.

(1) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order.

Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended,

(a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding thirty days;

(b) by the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a)

Provided that the registered person who was served notice under sub-section (2) of section 29 in the manner as provided in clause (c) or clause (d) of sub-section (1) of section 169 and who could not reply to the said notice, thereby resulting in cancellation of his registration certificate and is hence unable to file application for revocation of cancellation of registration under sub-section (1) of section 30 of the Act, against such order passed up to 31.03.2019, shall be allowed to file application for revocation of cancellation of the registration not later than 22.07.2019.

(2) The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application

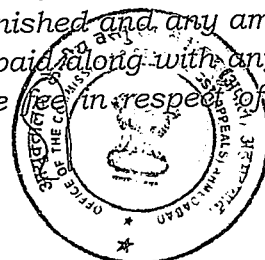
Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.

(3) The revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

RULE 23. Revocation of cancellation of registration :-

(1) A registered person, whose registration is cancelled by the proper officer on his own motion, may submit an application for revocation of cancellation of registration, in FORM GST REG-21, to such proper officer, within a period of thirty days from the date of the service of the order of cancellation of registration at the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

Provided that no application for revocation shall be filed, if the registration has been cancelled for the failure of the registered person to furnish returns, unless such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns.



Provided further that all returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of thirty days from the date of order of revocation of cancellation of registration:

Provided also that where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of thirty days from the date of order of revocation of cancellation of registration.

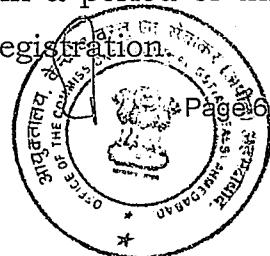
(2) (a) *Where the proper officer is satisfied, for reasons to be recorded in writing, that there are sufficient grounds for revocation of cancellation of registration, he shall revoke the cancellation of registration by an order in FORM GST REG-22 within a period of thirty days from the date of the receipt of the application and communicate the same to the applicant.*

(b) *The proper officer may, for reasons to be recorded in writing, under circumstances other than those specified in clause (a), by an order in FORM GST REG-05, reject the application for revocation of cancellation of registration and communicate the same to the applicant.*

(3) *The proper officer shall, before passing the order referred to in clause (b) of sub-rule (2), issue a notice in FORM GST REG-23 requiring the applicant to show cause as to why the application submitted for revocation under sub-rule (1) should not be rejected and the applicant shall furnish the reply within a period of seven working days from the date of the service of the notice in FORM GST REG-24.*

(4) *Upon receipt of the information or clarification in FORM GST REG-24, the proper officer shall proceed to dispose of the application in the manner specified in sub-rule (2) within a period of thirty days from the date of the receipt of such information or clarification from the applicant.*

9. On perusal of above Section 30(1), I find that subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order. Further, as per first proviso to Rule 23(1) of the CGST Rules, no such application can be filed in cases where registration has been cancelled for the failure of the registered person to furnish returns, unless such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns. Furthermore, as per second proviso to the said rule, it is provided also that where the registration has been cancelled, the registered person shall furnish all returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration within a period of thirty days from the date of order of revocation of cancellation of registration.

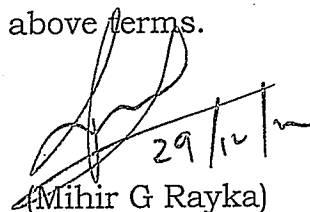


10. I find that registration of the appellant has been cancelled with effect from 01.07.2022. On going through the status of filing of GST Returns, I find that they have opted composite scheme and have filed their returns for the quarter Jul-Sep 2022 in the form of CMP-08 and annual return GSTR-04 (2021-22) upto the cancellation of their GST registration. It is obvious that the system does not allow for filing returns for the period falling after the effective date of cancellation of registration. Therefore, second proviso to Rule 23(1) mandates filing of returns for such periods within 30 days from date of revocation of cancellation of registration.

11. Looking into the facts involved in the matter as discussed in foregoing paras, I am of the opinion that the appellant should not be made to suffer any more. Accordingly, I direct the *adjudicating authority / proper officer* to take necessary steps to revoke the GST registration of the appellant. Needless to say, the appellant shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of thirty days from the date of order of revocation of cancellation of registration. Further, payment particulars (including tax liability, interest, penalty & late fee etc.) and the status of returns filed may be verified by the concerned authority having power to revoke the cancelled registration. Thus, the appeal filed by the appellant is allowed in above terms.

12. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

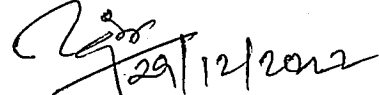
12. The appeals filed by the appellants stand disposed of in above terms.


(Mihir G Rayka)

Additional Commissioner (Appeals)

Date: 29.12.2022

Attested


29/12/2022

(Tejas J Mistry)

Superintendent, Central Tax (Appeals)

Ahmedabad



By R.P.A.D.

To,

M/s. Ritaben Kalpeshbhai Patel [GSTIN-24GGPPP1740H1Z6],

(Trade Name : M/s. Safal Pharmacy), Second Floor, M/L No. -10122238/99,

Shop No. 234, Shivam Spacelink, NH-8 Himatnagar to Shamlaji Road,

Motipura, Himatnagar, Sabarkantha, Gujarat-383001

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, Div-Gandhinagar, Gandhinagar Commissionerate.
5. The Superintendent, CGST & C.Ex., Range-I, Himatnagar, Division-Himatnagar, 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.

