



सत्यमेव जयते

आयुक्त(अपील) का कार्यालय,

Office of the Commissioner (Appeal),

केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद

Central GST, Appeal Commissionerate, Ahmedabad

जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015



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DIN NO. : 20230164SW000000C86F

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/2533/2022 / 7473-79
ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-003-APP-ADC-87 to 89/2022-23
दिनांक Date : 18-01-2023 जारी करने की तारीख Date of Issue : 19-01-2023

श्री मिहिर रायका अपर आयुक्त (अपील) द्वारा पारित

Passed by Shri Mihir Rayka, Additional Commissioner (Appeals)

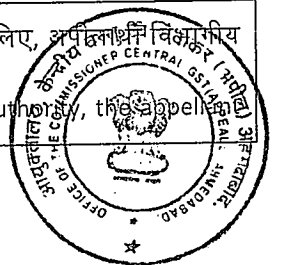
ग Arising out of the following Orders-in-Original issued by the Superintendent, Central Goods and Service Tax, Range-I, Division Mehsana, Gandhinagar Commissionerate

S.No.	Order In Original No.
1.	CGST/MEH/AR-I/24/2021 dt. 21.02.2022
2.	CGST/MEH/AR-I/26/2021 dt. 21.03.2022
3.	CGST/MEH/AR-I/30/2021 dt. 20.04.2022

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

M/s Fidere Facilities Management Pvt Ltd [GSTIN: 24AADCT5306Q1Z2]
House No. 12, Samarpan Society, Bechar-Becharji,
Mehsana, Gujarat - 384205

(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 अपील्य प्राधिकारी को अपील दाखिल करने से संबंधित व्यापक, विस्तृत और नवीनतम प्रावधानों के लिए, अपीलकर्ता को अपील 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 websitewww.cbic.gov.in .



ORDER-IN-APPEAL

M/s. Fidere Facilities Management Private Limited, House No.12, Samarpan Society, Bechar-Becharji, Mehsana, Gujarat, 384205 [GSTIN - 24AADCT5306Q1Z2] (hereinafter referred to as the 'appellant') has filed the following appeals against "Order(s)-In-Original / Assessment Order(s)" **as mentioned in Table-A below** (hereinafter referred to as 'impugned order(s)'), passed by the Superintendent, Range-I, Division - Mehsana, Gandhinagar Commissionerate (hereinafter referred to as 'Adjudicating authority / Assessing Authority'):

Table-A

Sr. No	Order In Original Number	OIO Date	Show Cause Notice Number & Date
1	CGST/ MEH / AR-I / 24 / 2021 (3CEEWU0301S022200009)	21.02.2022	CGST/Range-1/ Meh / Notice / Dec / GSTR3B / 2020-21 dated 03.02.2022 (For the month December-2021)
2	CGST/ MEH / AR-I / 26 / 2021 (3CEEWU0301S032200012)	21.03.2022	CGST/Range-1/ Meh / Notice / Jan 22 / 3A / 2021-22 dated 28.02.2022 (For the month January - 2022)
3	CGST/ MEH / AR-I / 30 / 2021 (3CEEWU0301S042200018)	20.04.2022	CGST/Range-1/ Meh / Notice / Feb 22 / 3A / 2021-22 dated 28.02.2022 (For the month February - 2022)

2. Brief facts of the case are that the appellant is primarily engaged in providing security and other facility management services and duly registered under the GST law bearing GSTIN : 24AADCT5306Q1Z2. Further, the "Assessing Authority" has issued following Assessment Order(s) [(FORM GST ASMT-13)] **as shown in the Table-B below** under section 62 of CGST Act, 2017 read with Rule 100(1) of CGST Rules, 2017 to the appellant with the reason that "The notice referred to above was / were issued to the appellant under Section 46 of the CGST Act, 2017 for failure to furnish the return i.e GSTR-3B for the period from December -2021, January-2022 and February-2022 respectively. From the records available with the department, it has been noticed that appellant have not furnished the returns for the period from December -2021, January-2022 and February-2022 till date. Therefore, on the basis of information available with the department, the amount assessed and payable by the appellant is / are as under :

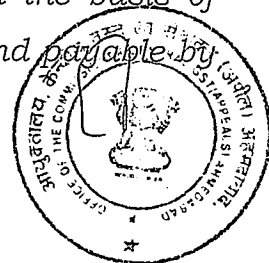


Table-B

I. Assessment Order No. 3CEEWU0301S022200009 dated 21.02.2022

Tax Period	Act	Tax	Interest	Penalty	Total (in Rs)
December - 2021	CGST	1357739	As applicable	5000	2725478
	SGST	1357739	As applicable	5000	
	IGST	0	As applicable		
		2715478		10000	2725478 + Interest

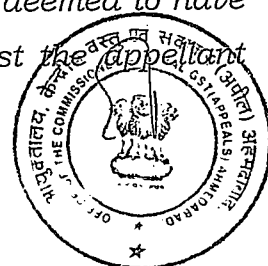
II. Assessment Order No. 3CEEWU0301S032200012 dated 21.03.2022

Tax Period	Act	Tax	Interest	Penalty	Total (in Rs)
January - 2022	CGST	1250075	As applicable	5000	2500150
	SGST	1250075	As applicable	5000	
	IGST	0	As applicable		
		2500150		10000	2510150 + Interest

III. Assessment Order No. 3CEEWU0301S042200018 dated 20.04.2022

Tax Period	Act	Tax	Interest	Penalty	Total (in Rs)
February - 2022	CGST	1186960	As applicable	5000	2783920
	SGST	1186960	As applicable	5000	
	IGST	0	As applicable		
		2373920		10000	2383920 + Interest

In view of the facts narrated above, it is noticed that, the appellant has not furnished the returns for the Month of December-2021, January-2022 and February-2022 respectively till date. Under the circumstances, this office to assessed tax liability for the month of December-2021, January-2022 and February-2022 respectively on the basis of last GSTR-1 / GSTR 3B returns filed by the appellant. Therefore under the circumstances for the purpose of best judgement and appellant's liability for the month of December-2021, January-2022 and February-2022 respectively are as mentioned in Table-B above. It was also informed to the appellant that if the appellant furnished the return(s) within 30 days from the date of service of this order, the order shall be deemed to have been withdrawn; otherwise, proceeding shall be initiated against the appellant after the aforesaid period, to recover the outstanding dues."



Further, the appellant have been issued DRC-07 i.e "Summary of Order(s)" under section 62 of the CGST Act, 2017 read with Rule 100(1), 100(2), 100(3) and 142(5) of the CGST Rules, 2017, showing the details of demand of tax, which are tabulated in Table-C as shown below :

Table-C

I. Order No. 3CEEWU0301S022200009 dated 21.02.2022

Tax Period	Tax Rate	Turn-over (Rs.)	Act	Tax / Cess	Interest	Penalty	Total (Rs.)
Dec-'21	9%	25000000	CGST	1357739	44861	5000	1407600
	9%		SGST	1357739	44861	5000	1407600
		TOTAL		2715478	89722	10000	2815200

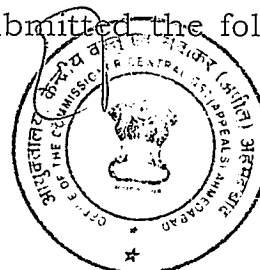
II. Order No. 3CEEWU0301S032200012 dated 21.03.2022

Tax Period	Tax Rate	Turn-over (Rs.)	Act	Tax / Cess	Interest	Penalty	Total (Rs.)
Jan-'22	18%	50000000	CGST	1250075	45003	5000	1300078
	18%		SGST	1250075	45003	5000	1300078
		TOTAL		2500150	90006	10000	2600156

III. Order No. 3CEEWU0301S042200018 dated 20.04.2022

Tax Period	Tax Rate	Turn-over (Rs.)	Act	Tax / Cess	Interest	Penalty	Total (Rs.)
Feb-'22	9%	25000000	CGST	1191960	38796	5000	1235756
	9%		SGST	1191960	38796	5000	1235756
		TOTAL		2383920	77592	10000	2471512

3. Being aggrieved with the 'Order(s)-In-Original / Assessment Order(s)' dated 21.02.2022, 21.03.2022 and 20.04.2022 respectively; the "appellant" has filed the present appeal(s) on 29.06.2022, 4.07.2022 and 8.7.2022 respectively. Out of the three appeals, in one appeal, the appellant filed appeal on 29.6.2022 against Order-In-Original No. CGST/MEH / AR-I / 24 / 2021 / Assessment Order No. 3CEEWU0301S022200009 dated 21.02.2022 after the delay of normal period prescribed under Section 107(1) of CGST Act, 2017. The "appellant" has submitted the following grounds of appeal contending that



- (i) Neither the SCN dated 3.2.2022 nor the assessment order 3CEEWU0301S022200009 dated 21.02.2022 was communicated to the appellant and the matter was decided on ex-parte.
- (ii) The adjudicating authority has passed a summary order DRC-07 dated 28.03.2022 with reference to assessment order No. 3CEEWU0301S022200009 dated 21.02.2022, confirming the demand of tax amounting to Rs. 27,15,478/- (CGST Rs.13,57,739/-, SGST Rs. 13,57,739/-) with interest and Penalty. As the determination of tax liability is incorrect in a much as it is merely based on assumption. It was only after the issuance of DRC-07 dated 28.03.2022, the appellant came to know about the assessment order dated 21.02.2022. In the meanwhile, the appellant has duly filed the return in FORM GSTR-3B for the month of December 2021 on 12.04.2022 along-with tax, interest and late fee.

They further contended in other appeals that

- with reference to assessment order No. 3CEEWU0301S032200012 dated 21.03.2022, the adjudicating authority has passed a summary order DRC-07 dated 4.5.2022, confirming the demand of tax amounting to Rs. 25,00,150/- (CGST Rs. 12,50,075/-, SGST Rs. 12,50,075/-) with interest and Penalty under Section 62(1) of the CGST Act, 2017 as the same is arbitrary and in direct violation of the principles of natural justice.
- with reference to assessment order No. 3CEEWU0301S042200018 dated 20.04.2022, the adjudicating authority has passed a summary order DRC-07 dated 24.05.2022 confirming the demand of tax amounting to Rs. 23,73,920/- (CGST Rs. 11,86,960/-, SGST Rs. 11,86,960/-) with interest and penalty under Section 62(1) of the CGST Act, 2017 as the same is arbitrary and in direct violation of the principles of natural justice.
- (iii) Because of harsh economic constraints faced by the appellant, owing to the late receipt of payment, the appellant unable to file returns for the month of December - 2021, January-2022 and February -2022. Now, the appellant filed GSTR-3B returns for the month of December 2021 on 12.4.2022 and have paid



liability, interest and late fees. And for the month of January 2022 the appellant have filed GSTR-1 return and declared their tax liability amounting to Rs. 17,72,917/-.

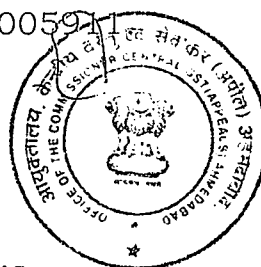
- (iv) That the adjudicating authority while passing the assessment order(s)/ impugned orders(s) under Section 62(1) of CGST Act, 2017 on the best judgement basis has failed to provide reasons on the basis of which the tax liability of the appellant has been determined;
- (v) That the impugned assessment orders & the respective Summary Orders issued in FORM DRC-07 for non-filing of returns for the month of December 2021, January 2022 and February 2022 are arbitrary and against the established principles of natural justice and are liable to be set aside.

3.1 The appellant has further submitted that they have filed their pending returns for the period Decemebr-2021, January 2022 and February 2022 as detailed below:

Month	GSTR 1	Date of filing GSTR-1	GSTR-3B	Date of filing of GSTR-3B
Dec 2021	Filed	01.03.2022	Filed	12.04.2022
Jan 2022	Filed	12.04.2022	Not filed	----
Feb 2022	Not filed	-----	Not filed	----

For the month of Dec 2021, the appellant discharged their GST liability of Rs. 17,56,284/-, Interest Rs. 28,558/- and Late Fee Rs. 3,250/- and requested to consider the said payment of GST liability in lieu of pre-deposit condition of 10%. Further, the appellant has paid 10% of differential demand in dispute i.e Rs. 95,920/- (Rs. 27,15,487 - Rs. 17,56,284 = Rs. 9,59,194/-) through DRC-03 on 16.11.2022.

For the month of January - 2022, the appellant declared their GST liability in Form GSTR-1 filed on dated 12.04.2022 amounting to Rs. 17,72,917/-. Further, the appellant has paid Rs. 2,50,016/- as 10% pre-deposit amount condition through their Electronic Credit Ledger dated 04.07.2022, Debit Entry No. DI240722000591



For the month of February – 2022, the appellant has neither declared any tax liability nor discharge their duty liability, but paid Rs. 2,38,292/- as 10% pre-deposit amount condition through their Electronic Credit Ledger dated 08.07.2022, Debit Entry No. DI2407220016741.

Personal Hearing :-

4. The Personal Hearing in all the cases was held on 7.12.2022 through virtual mode. Shri Arun Kumar Singh, Advocate and Authorized Representative of the appellant has attended the meeting and submitted that he has nothing more to add to the submissions till date.

Discussion and Findings :-

5. I have gone through the facts of the case(s), written submissions made by the 'appellant'. I find that the main issue to be decided in the instant case(s) is (i) whether the appeal(s) have been filed within the prescribed time- limit and (ii) whether the demand of Tax with Interest and penalty arising out of all Assessment are correct, and also legal & proper.

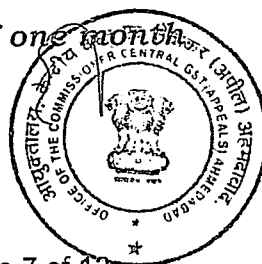
6. First of all, I would like to take up the issue of filing the appeal(s) and before deciding the issue on merits, it is imperative that the statutory provisions be gone through, which are reproduced, below:

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.



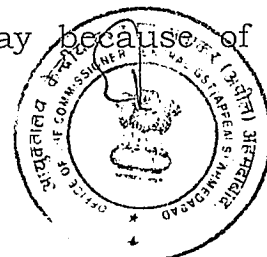
7. I observed that in the case of appeal filed against OIO No. CGST/ MEH / AR-I / 24 / 2021 (Order No. 3CEEWU0301S022200009), dated 21.02.2022, the appeal has been filed by delay from the normal period prescribed under Section 107(1) of the CGST Act, 2017. I find that the delay in filing the appeal is condonable for a further period of one month provided that the appellant was prevented by sufficient cause from presenting the appeal is shown and the delay of more than one month is not condonable under the provisions of sub section (4) of Section 107 of the Central Goods and Service Tax Act, 2017.

7.1 Further, in the above context, I find that the Hon'ble Supreme Court has passed order on 10.01.2022 in matter of Miscellaneous Application No. 21 of 2022, in MA 665/2021 IN SMW(C) No. 3 of 2020. The relevant para No. 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 direction: ances Therefore, we dispose of the M.A. No. 665 of 2021 with the following directions:-*

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.*

In the appeal filed against the "impugned order" issued on 21.02.2022 and communicated on 22.02.2022 as confirmed by the Range Superintendent, CGST, Appeals, Ahmedabad on 12.01.2023 so the normal appeal period of three months was available to the appellant upto 22.05.2022 only. Further, looking to the Covid-19 pandemic situation the present appeal is condonable for one month as per Section 107(4) of the CGST Act, 2017. Accordingly, the appeal was required to be filed on or before 22.06.2022. Now, as per the Para 5(III) of the aforesaid order of Hon'ble Supreme Court the *appellant* became eligible to file appeal within 90 days from 01.03.2022 (i.e excluding the period from 15.3.2020 to 28.02.2022) and by applying the longer period (one month condonation) upto 29.06.2022. It is pertinent to mention here that the *appellant* has filed the present appeal on 29.06.2022 and requested for condonation of delay because of non-



availability of their accountant due to ill health of his month and remedy against the assessment order is available vide appeal was not known to the appellant. In view of the above and taking lenient view in the matter, I condone the delay of filing the appeal and I find that the appeal filed on 29.06.2022 is filed within stipulated time limit.

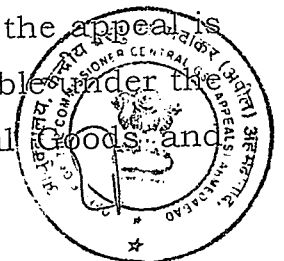
7.2 I also find that the CBIC, New Delhi has issued Circular No. 157/13/121-GST dated 20th July, 2021 and clarified as under:-

4(c):- Appeals by taxpayers/ tax authorities against any quasi-judicial order:-Wherever any appeal is required to 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.

7.3 In view of the above and also looking into the Covid-19 pandemic situation in the instant matter, I am inclined to condone the delay of filing of appeal. Therefore, I find that the appeal filed on 29.6.2022 is filed within stipulated time limit. Accordingly, I am proceeded to decide the present case.

7.4 In case of the appeal filed against OIO Number : CGST/ MEH / AR-I / 26 / 2021 (3CEEWU0301S032200012) dated 21.03.2022, the appeal has been filed by delay from the normal period prescribed under Section 107(1) of the CGST Act, 2017 i.e on 4.7.2022. Further, it has been confirmed by the Range Superintendent, CGST, AR-I, Div- Mehsana, vide their letter dated 12.01.2023 that the OIO was served to the appellant on 21.03.2022. I find that the delay in filing the appeal is condonable for a further period of one month under Section 107(4) of the CGST Act, 2017 provided that the appellant was prevented by sufficient cause from presenting the appeal is shown and the delay of more than one month is not condonable under the provisions of sub section (4) of Section 107 of the Central Goods and



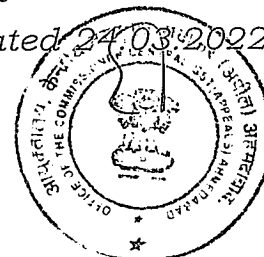
Service Tax Act, 2017. The appellant submitted that the delay of filing the appeal, on the ground that as they only come to know on 4.5.2022 on GST portal due to late communication / service of assessment order dated 21.03.2022, as the same is confirmed by the Range Superintendent, CGST, Appeals, Ahmedabad on 12.01.2023. Further, the appellant requested for condonation of delay in filing appeal requested for condonation of delay because of non-availability of their accountant due to ill health of his mother and remedy against the assessment order is available vide appeal was not known to the appellant. In view of the above and taking lenient view in the matter, I condone the delay of filing the appeal and I find that the appeal filed on 04.07.2022 is filed within stipulated time limit.

7.5 In view of the above and also looking into the Covid-19 pandemic situation in the instant matter, I am inclined to condone the delay of filing of appeal. Therefore, I find that the appeal filed on 04.07.2022 is filed within stipulated time limit. Accordingly, I am proceeded to decide the present case.

7.6 In case of the appeal(s) filed against OIO Number : CGST/ MEH / AR-I / 30 / 2021 (3CEEWU0301S042200018) dated 20.04.2022, the appeal is required to be filed within three months period as prescribed under Section 107(1) of the CGST Act, 2017 i.e on 8.7.2022. Therefore, I find that the appeal filed on 08.07.2022 is filed within stipulated time limit as per Section 107 of the CGST Act, 2017.

8. Now I take up the issue regards to non filing of GSTR-3B returns by the appellant for the month of December 2021, January 2022 and February 2022 in stipulated time. The appellant has submitted that they have filed their pending returns for the month of Decemebr-2021, January 2022, as mentioned in Para 3.1 above,

8.1 The Range Superintendent issued Show Cause Notice(s) dated 3.2.2022, date 28.02.2022 & dated 24.03.2022. Subsequently, issued Assessment order(s) in FORM GST ASMT-13 under Section 62 of CGST Act, 2017 read with Rule 100 of the CGST Rules, 2017 on dated 21.02.2022, dated 21.03.2022 and dated 20.04.200 respectively by stating that " *Tax payer has failed to file monthly GSTR 3B returns, as such notice(s) was issued to tax payer under Section 46 of the CGST Act, 2017 to them on dated 3.2.2022, date 28.02.2022 and dated 24.03.2022*



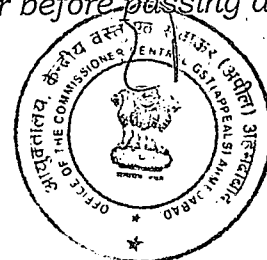
respectively. On verification, it is noticed that tax payer has not filed / furnished GSTR-3B for the month of December-2021, January 2022 and February 2022 respectively till date. Under the circumstances, this office to assessed tax liability for the month of December-2021, January-2022 and February-2022' respectively on the basis of last GSTR-1 / GSTR 3B returns filed by the appellant. Therefore under the circumstances for the purpose of best judgement and appellant's liability for the month of December-2021, January-2022 and February-2022 respectively are as mentioned in Table-B above. It was also informed to the appellant that if the appellant furnished the return(s) within 30 days from the date of service of this order, the order shall be deemed to have been withdrawn; otherwise, proceeding shall be initiated against the appellant after the aforesaid period, to recover the outstanding dues."

9. In view of the above, I find that the impugned order(s) have been passed under Rule 100(1) of CGST Rules, 2017 and Section 62 of the CGST Act, 2017 by the Assessing Authority / Proper Officer on the basis of best judgement method considering information available with the department and accordingly arrived the GST liability for the month of December 2021, January 2022 and February 2022.

10. From ongoing paras and available records and facts in the present matter, I find that there is no evidences available on records that Personal Hearing(s) in the matter was/were conducted which has also been contended by the appellant in their appeal memorandum. Therefore, I find that the adjudicating authority has violated the principles of natural justice in passing the impugned order(s).

10.1 Further, I rely upon in the case of *Aggarwal Dyeing and Printing Works Vs. State of Gujarat & Ors. in SCA No.18860 of 2021 of H'ble Gujarat High Court*, held that "reasons are heart and soul of the order and non-communication of the same itself amounts to denial of reasonable opportunity of hearing resulting into miscarriage of justice.".

10.2 I also rely upon in the case of Writ Petition NO. 33334 of 2022 of the H'ble Telangana High Court, wherein it was held that "6. On due consideration, we are of the view that it would only be in the interest of justice if the petitioner is granted an opportunity of hearing by the Assistant Commissioner before passing a fresh order in accordance with law."



10.3 Further, I also rely upon in the case of Assistant Commissioner, Commercial Tax Department Vs. Shukla & Brothers reported at 2010 (254) E.L.T. 6 (SC)] = 2011 (22) STR 105 (SC), the H'ble Supreme Court held that :

"9. The doctrine of audi alteram partem has three basic essentials. Firstly, a person against whom an order is required to be passed or whose rights are likely to be affected adversely must be granted an opportunity of being heard. Secondly, the concerned authority should provide a fair and transparent procedure and lastly, the authority concerned must apply its mind and dispose of the matter by a reasoned or speaking order....."

13. *The principle of natural justice has twin ingredients; firstly, the person who is likely to be adversely affected by the action of the authorities should be given notice to show cause thereof and granted an opportunity of hearing and secondly, the orders so passed by the authorities should give reason for arriving at any conclusion shown proper application of mind. Violation of either of them could in the given facts and circumstances of the case, vitiate the order itself."*

11. In view of the above, I am of the view that speaking order should have been passed by giving proper opportunity of personal hearing in the matter to the appellant and the adjudicating authority should give reasons for arriving at conclusion by showing proper explanation as to how the adjudicating authority arrived at such turnover and tax /duty calculation. I am also of the view that any best judgement assessment must be supplemented by reason. Without the reason best judgement orders amounts to denial of fundamental justice.

12. Therefore, I find that the impugned order(s) is/are required to be set aside to the extent of excess amount of GST liability so arrived. Needless to say that whatever GST liability paid by the appellant shall be appropriated by the adjudicating authority. Accordingly, I allow the present appeal(s) of the appellant without going into the merits of the case and quashed the impugned order(s) to the above extent.

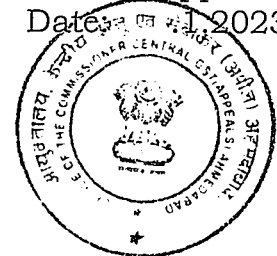
13. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

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

(Mihir Rayka)
18/01/23

Additional Commissioner (Appeals)

Date: 18/01/2023



Attested

(Tejas J Mistry)
19/1/2023

(Tejas J Mistry)
Superintendent

Central Tax (Appeals), Ahmedabad

By R.P.A.D.

To,

M/s. Fidere Facilities Management Pvt Ltd [GSTIN – 24AADCT5306Q1Z2],
House No.12, Samarpan Society, Bechar-Becharji,
Mehsana, Gujarat, 384205

Copy to:

1. The Principal Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner, CGST & C. Ex., Appeals, Ahmedabad.
3. The Commissioner, CGST & C. Ex., Gandhinagar .
4. The Deputy/Assistant Commissioner, CGST & C. Ex, Division-Mehsana, Gandhinagar Commissionerate.
5. The Additional Commissioner, Central Tax (System), Gandhinagar
6. The Superintendent, CGST, Range-I, Div. Mehsana, Gandhinagar Commissionerate.
- ✓ 7. Guard File.
8. P.A. File

