



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



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क फाइल संख्या : File No : GAPPL/ADC/GSTP/391/2023

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ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-003-APP-ADC-96/2022-23

दिनांक Date : 21-02-2023 जारी करने की तारीख Date of Issue : 21-02-2023

श्री मिहिर रायका अपर आयुक्त (अपील) द्वारा पारित

Passed by Shri Mihir Rayka, Additional Commissioner (Appeals)

ग Arising out of Order-in-Original No ZA2401230494701 dated 09.01.2023 issued by the Superintendent, Central Goods and Service Tax, Ghatak 26 (Him.), Gandhinagar Commissionerate

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

M/s Hansaben Jitendrakumar Patel [GSTIN: 242200366527TRN]

[Trade Name: Anand Traders]

Plot No. 3, Survey No. 706, Khed Tasiya Road,

Nava, 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 अपीलार्थी 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

Brief facts of the case:-

Hansaben Jitendrakumar Patel (Trade Name: Anand Traders) Plot No.3, Survey No. 706, Khed Tasiya Road, Nava, Sabarkantha, Gujarat : 383 001 (hereinafter referred to as 'the Appellant') has filed the present appeal against Order No. ZA2401230494701, dated 09.01.2023 (hereinafter referred to as 'the impugned order') for rejection of Application for Registration issued by the Superintendent, CGST, Ghatak 26 (Him), Gandhinagar, (hereinafter referred to as 'the adjudicating authority') in Form GST REG-05.

2. Briefly stated the fact of the case is that the appellant filed application for GST registration under ARN AA2412220659945 dated 17-12-2022 along with supporting documents. The appellant was issued show cause notice in Form GST REG 03 under reference No. ZA241222200798R dated 28-12-2022 on the following reasons asking the appellant to file reply by 5-1-2023.

"1 Principal place of business – Document upload – Others (Please specify) – Kindly upload latest ownership documents i.e Index 2 copy / Sale Deed having name of owner and complete address of the business premises as you mentioned at Sr. No. 16(a) of application form. Kindly upload legible color scan copy of original PAN card of all the concern persons.

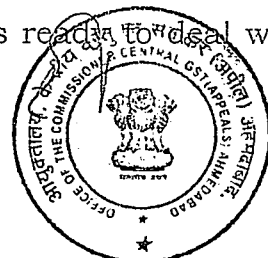
You are directed to submit your reply by 05.01.2023"

Subsequently, the adjudicating authority vide the impugned order dated 09.01.2023 ordered for rejection of Application for Registration on the following reasons:

"This has reference to your reply filed vide ARN AA2412220659945 dated 17.12.2022. The reply has been examined and the same has not been found to be satisfactory for the following reasons:

1 The death certificate of third owner Shri Ishwarbhai Valjibhai not uploaded. The application is rejected as provided under Rule 9(4) of the CGST Rules, 2017 as the Applicant has not filed his reply properly with regard to the query raised under Rule 9(2) of the CGST Rules, 2017."

3. Being aggrieved with the impugned order the appellant filed the present appeal on 10.01.2023 on the ground that rejection is based on non uploading the death certificate of third owner Shri Ishwarbhai Valjibhai. They have stated their trading activities from 27.12.2022. Rejection of new GST registration create a great hardship because, at present, no registered person is ready to deal with



them in absence of GST registration number. The appellant produced copy of purchase bill and a copy of sale bill. In view of above the appellant requested to grant registration so he can collect GST and deposit it to Government treasury. The appellant filed compliance / uploaded necessary documents to query dated 28.12.2022 and the department responded on 3.1.2023 through email to the appellant is as under:

"This mail is reference to the Application for filing clarification / additional information / document for Registration and GST REG-04. Your form is successfully submitted against your Application Reference Number (ARN) AA2412220659945 dated 2022-12-17 and Reference Number ZA241222200798R dated 2022-12-28."

Personal Hearing :

3. Personal hearing in the case was held on 17.02.2023. Shri K S Soni, appeared in person on behalf of the 'Appellant' as authorized representative. They have given written submission during the PH i.e on 17.2.2023 along-with relevant documents, and they have nothing more to add to it.

Discussion& findings:

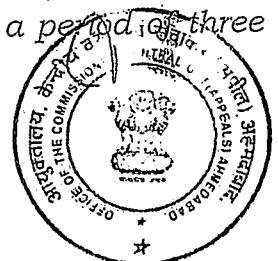
4. I have gone through the facts of the case, the impugned order and the grounds of appeal as well as written submissions of the appellant and documents on record. The appellant submitted the following relevant documents during the personal hearing held on 17.02.2023:

- (1) Copy of affidavit dated 17.12.2022 stating consent for GST registration purpose;
- (2) Transfer sheet (in Gujarati); (3) Transfer sheet (in English); (4) Village Form-2 (in Gujarati); (5) Village Form-2 (in English); (6) Certificate of Village (Gram) Panchayat; (7) Color photocopy of PANCARD- appellant; (8) Color photocopy of PANCARD -Co-owner;
- (9) Color photocopy of PANCARD - J.I. PATEL Co-owner; and (10) Photocopy of Death Certificate of Late Shri Ishwarbhai Valjibhai Patel.

Since the issue relate to rejection of application of GST registration, at the outset, I refer to relevant statutory provisions governing rejection of application of GST registration as under:

Rule 9 of CGST Rules, 2017 :

(1) The application shall be forwarded to the proper officer who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within a period of three working days from the date of submission of the application:



[Provided that where-

- (a) a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number; or
- (b) The proper officer, with the approval of an officer authorized by the Commissioner not below the rank of Assistant Commissioner, deems fit to carry out physical verification of places of business,
- the registration shall be granted within thirty days of submission of application, after physical verification of the place of business in the presence of the said person, in the manner provided under rule 25 and verification of such documents as the proper officer may deem fit.

(2) Where the application submitted under rule 8 is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith, he may issue a notice to the applicant electronically in Form GST REG 03 within a period of seven working days from the date of submission of the application and the applicant shall furnish such clarification, information or documents electronically, in Form GST REG-04, within a period of seven working days from the date of the receipt of such notice.

Provided that where -

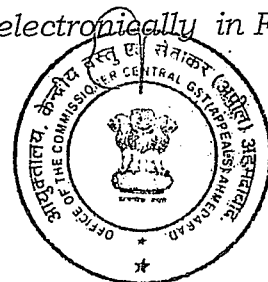
- (a) a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number; or
- (b) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,

the notice in Form GST REG-03 may be issued not later than thirty days from the date of submission of the application.

Explanation. - For the purposes of this sub-rule, the expression "clarification" includes modification or correction of particulars declared in the application for registration, other than Permanent Account Number, State, mobile number and e-mail address declared in Part A of Form GST REG-01.

(3) Where the proper officer is satisfied with the clarification, information or documents furnished by the applicant, he may approve the grant of registration to the applicant within a period of seven working days from the date of the receipt of such clarification or information or documents.

(4) Where no reply is furnished by the applicant in response to the notice issued under sub-rule (2) or where the proper officer is not satisfied with the clarification, information or documents furnished, he may, for reasons to be recorded in writing, reject such application and inform the applicant electronically in Form GST REG-05.



(5) If the proper officer fails to take any action-

(a) within a period of seven working days from the date of submission of the application in cases where the persons is not covered under proviso to sub-rule(1); or

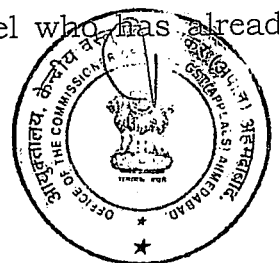
(b) within a period of thirty days from the date of submission of the application in cases where a person is covered under proviso to sub-rule(1); or

(c) within a period of seven working days from the date of receipt of the clarification, information or documents furnished by the applicant under sub-rule(2),

The application for grant of registration shall be deemed to have been approved."

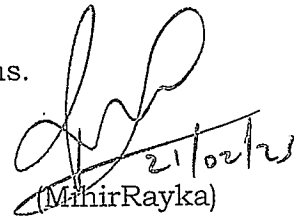
5. In the impugned order application was rejected due to unsatisfactory reply and non-compliance to queries raised under Rule 9 (2) i.e in respect of notice issued in Form REG 03. I find from the documents made available to me that the appellant complied with queries raised in the show cause notice on dated 3-1-2023. Therefore, findings made in this regard I find is factually wrong and hence this reason for rejection of registration I find is not a justifiable and sustainable reason. Regarding the reason of discrepancies in the non-uploading of death certificate of third owner is given in the impugned order, I find that these reasons were not mentioned in the show cause notice and hence this reason I find irrelevant and was taken without putting the appellant to notice and which is beyond the scope of show cause notice. I further find that Rule 9 of CGST Rules, 2017 envisage that the proper officer, if not satisfied with the clarification, information or documents furnished, can reject the application for registration for the reasons to be recorded in writing. Proviso 2 to Rule 9 further empowers the proper officer to carry out physical verification of premises. In the subject case, even though the appellant has submitted clarification/additional information/documents in Form GST REG 04, no reasons was recorded in writing with regard to the same. On the contrary the application was rejected due to unsatisfactory/ improper submission of compliance to the notice and on the reasons different from the reasons raised in the notice.

6. I have gone through the documents submitted by the appellant during the personal hearing i.e ownership of the principal place of business i.e Survey No. 706, Plot No.3, Anand Party Plot, Khed- Tasiya Road, At & Po. Nava, Sabarkantha - 383001, I find that there are two owners of the said premises viz. Jitendra Ishwarbhai Patel and Ramesh Ishwarbhai Patel. Further, I find that Late Shri Ishwarbhai Valjibhai Patel is the father of two owners as evident from the death certificate of Late Shri Ishwarbhai Valjibhai Patel who has already



been passed away on 2.9.2022. From the affidavit / consent letter, I also find that Hansaben Jitendrakumar Patel is proprietor of Anand Traders, and is also family member of Shri Jitendra Ishwarbhai Patel. Further, I find that from the certificate issued by the Sarpanch, Nava grup Gram Panchayat, Ta. Himmatnagar, Dist. Sabarkantha, dated 10.11.2022 that the firm Anand Traders is situated at Survey No. 706, Plot No.3, Khed-Tasiya Road, Nr. Nayara Petrol Pump, Nava, Ta. Himmatnagar, and proprietor of Anand Traders is Hansaben Jitendrakumar Patel and is dealing with the business of cement, steel and construction materials. I have also verified the PAN Card of Patel Hansaben J, Patel Jitendra Ishwarbhai and Patel Rameshkumar Ishwarbhai. I also find that even the reasons given in the impugned order with regard to discrepancies in ownership, pan card, etc are not properly examined by the adjudicating authority and hence weak reasons for rejection of application. However, I find that the documents submitted by the appellant are duly verified and found legally valid. In view of above, I hold that the impugned order passed by the adjudicating authority rejecting application of GST registration on the reasons mentioned therein is not legal and proper and deserve to be set aside. Accordingly, I set aside the impugned order and allow the appeal filed by the appellant.

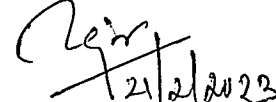
7. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।
The appeal filed by the *appellant* stands disposed of in above terms.


(MihirRayka)

Additional Commissioner (Appeals)

Date: 21.02.2023

Attested


(TEJAS J MISTRY)
Superintendent (Appeals)
Central Tax, Ahmedabad.
By R.P.A.D.



To

Hansaben Jitendrakumar Patel (Trade Name: M/s. Anand Traders)
Plot No.3, Survey No. 706, Khed Tasiya Road, Nava, Sabarkantha,
Gujarat : 383 001

Copy to:

1. The Principal Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner [Appeals], CGST & C.Ex., Ahmedabad.
3. The Commissioner, CGST & C.Ex., Ahmedabad-Gandhinagar.
4. The Deputy Commissioner (CPC Cell), O/o PCCO, CGST & C.Ex, Ahmedabad Zone, A'bad.
5. The Superintendent (CPC Cell), PCCO, CGST & C. Ex., Ahmedabad Zone, A'bad.
6. The Superintendent [Systems], CGST & C.Ex. (Appeals, Ahmedabad .
7. Guard File. /P. A. File.