



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, अम्बवाड़ी अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambewadi, Ahmedabad 380015

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DIN- 202311645W000001010D

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या File No : GAPPL/ADC/GSTP/3278/2023 -APPEAL | 8x43-49

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-003-APP-JC- 47 /2023-24**

दिनांक Date : **20.11.2023** जारी करने की तारीख Date of Issue : **24.11.2023**

श्री आदेश कुमार जैन संयुक्त आयुक्त (अपील) द्वारा वारित

Passed by Shri Adesh Kumar Jain, Joint Commissioner (Appeals)

ग Arising out of Order-In-Original No. ZA2410231358691 dated 27.10.2023 issued by The Superintendent, CGST, Ahmedabad.

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

Appellant	Respondent
M/s Sundheeha Nareshkumar Devchandbhai, Ground Floor, Shop No - 6, Sr. No - 126 Palki 3, Akarni No - 438, Bhildi Highway Road, Nr. Tanu Motors, At - Maigadh, Deesa - 385535	The Superintendent, CGST, Ahmedabad

(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)	उपरोक्त अपीलकर्ता प्राधिकारी को अपील दाखिल करने से संबंधित व्यापक, विस्तृत और नवीनतम प्रायदलों के लिए, अपीलकर्ता 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:-

This appeal has been filed under Section 107 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "the Act") by M/s. Sundhesha Nareshkumar Devchandbhai, Ground Floor, Shop No. 6, Sr. No. -126 Paiki 3, Akarni No -438, Bhildi Highway Road, Near Tanu Motors, At- Malgadh, Dessa-385535 (hereinafter referred to as "**Appellant**") against the Order No. ZA2410231358691 dated 27.10.2023 (hereinafter referred to as "**Impugned Order**") passed by the Superintendent, CGST, Ahmedabad (hereinafter referred to as "**the Adjudicating Authority/Proper Officer**").

2. Facts of the case, in brief, are that the *appellant* has applied for new GST registration vide ARN AA241023013858H dated 05.10.2023. In response to said application a Notice for seeking additional information / clarification / documents was issued to the appellant on 16.10.2023 and asked to submit reply by 26.10.2023. Thereafter, the *adjudicating authority* has rejected the application for registration vide *impugned order* dated 27.10.2023, wherein mentioned that -

- *The reply has been examined and the same has not been found to be satisfactory for the following reasons :*

"there is variance in uploaded documents (photo id & electricity bill). In the electricity bill, lessor name shown as Mali Babuji Dalaji while in the Aadhar, name shown as Gelot Babuji Dalaji. Such variance cannot be overlooked. Hence, application is rejected in terms of Rule 9(4) of the CGST Rules, 2017".

3. Being aggrieved with the *impugned order* dated 27.10.2023 the *appellant* has preferred the present appeal on 06.11.2023. In the appeal memo the *appellant* has submitted that-

- *That they have applied for GST new registration and they received SCN. There shop is rented in the sir name of the lessee both Gelot and Mali, Sub caste, are written in different aadhar card and lightbill but as both the Sir name are same even though both written in the rent agreement application, but rejected.*



In view of above, the *appellant* has made prayer to restore their Registration application.

Personal Hearing:

4. Personal Hearing in the matter was held on 09.11.2023 wherein Mr. Vipulkumar Tejabhai Desai, Advocate appeared on behalf of the *appellant* as authorized representative. During PH he has stated that the word "Mali" and "Celot" is same and mentioned in Rent Agreement. In view of above requested to allow appeal.

Discussion and Findings:

5. I have carefully gone through the facts of the case, grounds of appeal, submission made by the *appellant* and documents available on record. 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 Amendment of GST registration as under:

Rule 9 of CGST Rules, 2017 :

(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~~ ^{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

[(aa) a person, who has undergone authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business; 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**.

6. It is observed that 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. It is observed from the documents made available to this office that the *appellant* complied with queries raised in the show cause notice on dated 26.10.2023. Therefore, it is observed that the findings made in this regard are factually wrong and hence this reason for rejection of registration is not a justifiable and sustainable reason. Further 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 on 26.10.2023, no reasons was recorded in writing with regard to the same. On the contrary the application was rejected due to unsatisfactory/non submission of compliance to notice. However, during appeal the *appellant* in respect of queries raised in the notice, produced copies of Rent Agreement, Aadhar Copy, etc.


7. In view of above, it is observed that the *impugned order* passed by the *adjudicating authority* rejecting application for new 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 with a direction to submit all the relevant documents/submission before the Registration Authority, who shall verify the facts and after physical verification of place of business, pass order accordingly.

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.


(Adesh Kumar Jain)
20/11/2023
Joint Commissioner (Appeals)
Date: 20.11.2023

Attested


(Sandheer Kumar)
Superintendent (Appeals)



By R.P.A.D.

To,
M/s. Sundhesha Nareshkumar Devchandbhai,
Ground Floor, Shop No. 6, Sr. No. -126 Paiki 3,
Akarni No -438, Bhildi Highway Road,
Near Tanu Motors, At- Malgadh, Dessa-385535.

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 Commissionerate.
4. The Dy/Assistant Commissioner, CGST, Division-Palanpur, Gandhinagar Commissionerate.
5. The Superintendent, Range -III, Division-Palanpur, Gandhinagar Commissionerate.
6. The Superintendent (Systems), CGST Appeals, Ahmedabad.
7. Guard File.
8. P.A. File



