



सत्यमेव जयते

आयुक्तका कार्यालय

Office of the Commissioner

केन्द्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय

Central GST, Appeal Ahmedabad Commissionerate

जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.

GST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015

Phone: 079-26305065 Fax: 079-26305136

E-Mail : commrappl1-cexamd@nic.in



By Regd. Post

DIN NO.: 20240364SW000000B775

(क)	फ़ाइल संख्या / File No.	GAPPL/ADC/GSTP/947/2024 2192
(ख)	अपील आदेश संख्या और दिनांक / Order-In - Appeal and date	AHM-CGST-003-APP-JC-76/2023-24 and 04.03.2024
(ग)	पारित किया गया / Passed By	श्री आदेश कुमार जैन, संयुक्त आयुक्त (अपील) Shri Adesh Kumar Jain, Joint Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of Issue	05.03.2024
(ङ)	Arising out of Order-In-Original No. ZA240224008002H dated: 02.02.2024 passed by The Superintendent, CGST Ahmedabad.	
(च)	Name of the Appellant	Name of the Respondent
	M/s Itlinflex Pipes, Plot No 129, Opp. Vijay Transport, G.I.D.C. Naroda, Ahmedabad - 382330	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)	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**BRIEF FACTS OF THE CASE:**

M/s. Itlinflex Pipes, Plot No. 129, Opposite Vijay Transport, G.I.D.C. Naroda, Ahmedabad-382330 (hereinafter referred to as the 'appellant') has filed present appeal against Order of Rejection of Application for New Registration, bearing Reference No. ZA240224008002H dated 02.02.2024 (hereinafter referred to as 'impugned order'), issued by the Superintendent, Central GST, Ahmedabad (hereinafter referred to as 'adjudicating authority/proper officer').

2. Briefly stated the fact of the case is that the appellant filed application for GST registration under ARN AA2412230925386 dated 23.12.2023. In respond to appellant application, Show Cause Notice was issued on 16.01.2024 for seeking Additional Information/Clarification/Documents relating to application for registration. The reply to the SCN has been examined by the Adjudicating Authority and as the same has not been found to be satisfactory, Adjudicating Authority vide 'impugned order' dated 02.02.2024 rejected the application for registration and passed the following order:

In spite of query raised the applicant has not uploaded NOC of GIDC for subletting /renting the premises by the occupier to whom GIDC has allotted the plot/shed. Hence incomplete application and ARN is rejected in terms of Rule 9(4) of the CGST Rules, 2017."

3. Being aggrieved with the impugned order, the appellant filed the present appeal online on 06.02.2024 and offline on 21.02.2024 alongwith following grounds of appeal and documents:

1. Index copy;
2. Office Order issue by GIDC dated 29.12.2014;
3. Deed of assignment of lease cum conveyance;
4. Notarised Rent Agreement between M/s Ashish Agro Plast Pvt Ltd (Owner) and M/s. Itlinflex Pipes (Appellant);
5. Electricity Bill (UGVCL) dated 15.09.2023 in the name of M/s Ashish Agro

Plast Pvt Ltd (Owner);

6. AMC Property Tax Bill in the name of M/s Ashish Agro Plast Pvt Ltd (Owner).

Grounds of Appeals:

- That the appellant has rented the premises from M/s Ashish Agro Plast Pvt Ltd, who is the legal and right full owner of the premises;
- Agro Plast Private Limited is the registered owner of the Naroda, Ahmedabad - 382330 and has all the right from the fact that assignment of lease cum conveyance Private Limited and Polyvin Corporation as on with sub registrar.;
- Lease cum conveyance has been made Limited and Polyvin Corporation is also approved by GIDC with the Office Order dated on 29/ 12/2014. Which is issued by GIDC to Ashish Agroplast private limited and Polyvin Corporation stating that said plot has been transferred to Ashish Agroplast Private Limited;
- Any Lease deed agreement has not made between GIDC and Ashish Agroplast Private limited separately;
- that deed of assignment of lease cum conveyance on page Number 8 it is clearly mention that transferee can "receive Rent" and such deed of assignment of lease cum conveyance is accepted by GIDC Through office order which state that transferee (Ashish Agroplast Private Limited) can rent a property.

In view of the above the appellant requested to grant GST registration.

Virtual Hearing:

4. Virtual hearing in the matter was held on 27.02.2024. Shri Bhavin Panchal, CA, authorized representative of appellant appeared in the virtual hearing. He submitted that all the documents as required under SOP have been complied but the application was rejected which is against the legal provisions. They are going to start valve manufacturing. In view of above requested to allow appeal.

Discussion and Findings:

5. I have carefully gone through the case, the appeal memorandum and written submissions filed by the appellant. As per Section 107 of the CGST Act, 2017, the appellant is required to file the appeal within three months time period. In the present case, the appellant has filed the present appeal online on 06.02.2024 and offline on 21.02.2024 against the *impugned order* dated 02.02.2024. Hence, the appeal is to be considered as filed in time.

6. Now, the main issue in the matter is whether the impugned order passed by the Adjudicating Authority for rejection of application for new GST registration is proper or not? For this, I refer Rule 9 of the CGST Rules, 2017, which is re-produced here under:

“Rule 9. Verification of the application and approval. –

(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 ¹[seven] working days from the date of submission of the application:*

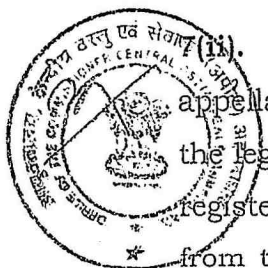
(2) *Where the application submitted under rule 8 is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith, he may issue a notice to the applicant electronically in FORM GST REG-03 within a period of ³[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.*

(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 ⁵[may], for reasons to be recorded in writing, reject such application and inform the applicant electronically in FORM GST REG-05”*

7(i). As per the above Rule, if 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. In the present case, the proper officer observed that applicant did not submit NOC of GIDC for subletting/renting the premises by the occupier to whom GIDC has allotted the plot/shed and hence rejected the application for new GST registration of the Appellant. However, it is observed that the appellant in the present appeal has submitted the below mentioned documents in support of their grounds of appeal:

1. Index copy;
2. Office Order issue by GIDC dated 29.12.2014;
3. Deed of assignment of lease cum conveyance;
4. Notarised Rent Agreement between M/s Ashish Agro Plast Pvt Ltd (Owner) and M/s. Itlinflex Pipes (Appellant);
5. Electricity Bill (UGVCL) dated 15.09.2023 in the name of M/s Ashish Agro Plast Pvt Ltd (Owner);
6. AMC Property Tax Bill in the name of M/s Ashish Agro Plast Pvt Ltd (Owner).



Further in the grounds of appeal appellant submitted that the appellant has rented the premises from M/s Ashish Agro Plast Pvt Ltd, who is the legal and right full owner of the premises. Agro Plast Private Limited is the registered owner of the Naroda, Ahmedabad - 382330 and has all the right from the fact that assignment of lease cum conveyance Private Limited and Polyvin Corporation as on with sub registrar. Lease cum conveyance has been made Limited and Polyvin Corporation is also approved by GIDC with the Office Order dated on 29/12/2014, which is issued by GIDC to Ashish Agroplast private limited and Polyvin Corporation stating that said plot has been transferred to Ashish Agroplast Private Limited. The appellant further submitted that Lease deed agreement has not made between GIDC and Ashish Agroplast Private limited separately. However deed of assignment of lease cum conveyance on page Number 8 it is clearly mention that transferee can "receive Rent" and such deed of assignment of lease cum conveyance is accepted by GIDC Through office order which state that transferee (Ashish Agroplast Private Limited) can rent a property.

8. In view of above grounds and the documents produced by the appellant, I find that the impugned order passed by the adjudicating authority rejecting application for new registration is deserve to be set aside as the adjudicating authority nowhere in the impugned order discussed the reasons on which para of SOP the appellant failed to comply. Further Proviso 2 to Rule 9 further empowers the proper officer to carry out physical verification of premises. In view of the above, I set aside the impugned order and allow the appeal filed by the appellant and directed to submit the relevant documents/submission as required under the Standard Operating Procedure (SOP) Instruction No.03/2023-GST dated 14.06.2023 issued by the GST Policy Wing, CBIC, New Delhi and the CPC Advisory 01/2017 dated 23.06.2017 dated 23.06.2017 issued by the Directorate of Systems, Chennai and para 7(i) of this order, before Registration Authority, who shall verify the facts and pass the order accordingly.

अपीलकर्ताद्वारा दर्ज की गई अपीलकानिपटाराउपरोक्तरीकेसेकियाजाताहै।

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

(Handwritten Signature)
4/3/24
(आदेश कुमार जैन)
संयुक्त आयुक्त (अपील)

CGST & C.EX., AHMEDABAD.

Date: 04.03.2024

Attested.

(Handwritten Signature)
04/03/24
(Sandheer Kumar)
SUPERINTENDENT,
CGST & C.EX.(APPEALS),
AHMEDABAD.



By R.P.A.D.

To
M/s. Itlinflex Pipes,
Plot No. 129, Opposite Vijay Transport,
G.I.D.C. Naroda, Ahmedabad-382330.

Copy to:

1. The Principal Chief Commissioner, CGST & C.Ex., Ahmedabad Zone.
2. The Commissioner, CGST & C. Excise, Appeals, Ahmedabad.
3. The Commissioner, Central GST & C.Ex, Gandhinagar.
4. The Dy./Assist. Commissioner, CGST & C.Ex, Division-Gandhinagar, Gandhinagar Commissionerate.
5. The Nodel Officer (CPC), PCCO, CGST, Ahmedabad.
6. The Superintendent (Systems), CGST & C.Ex(Appeals), Ahmedabad.
7. Guard File / P.A. File.

