



आयुक्त का कार्यालय, (अपीलस)
Office of the Commissioner,
केंद्रीय जीएसटी, अहमदाबाद आयुक्तालय
Central GST, Appeal Commissionerate- Ahmedabad
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.
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DIN20210764SW000000C135

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/459/2021-Appeal- O/o COMMR-CGST-APPL-AHMEDABAD / 2418 To 2422

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-002-APP-ADC-24/2021-22

दिनांक Date : 23.07.2021 जारी करने की तारीख Date of Issue : 23.07.2021

श्री मोहित अग्रवाल अपर आयुक्त (अपीलस) द्वारा पारित

Passed by Shri. Shri. Mohit Agrawal, Additional Commissioner (Appeals)

ग Arising out of Order-in-Original No ZA241120029887N dated 06.11.2020 passed by Assistant/Deputy Commissioner, CGST & C.Ex Division-VII, Ahmedabad North

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

Appellant- M/s UAP Projects (Prop. Unmesh Ashesh Patel).

Respondent- Assistant/Deputy Commissioner, CGST & C.Ex., Division-VII, Ahmedabad North.

(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.



ORDER IN APPEAL

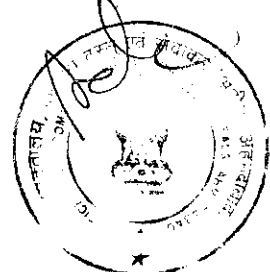
This appeal has been filed by M/s. UAP Projects, (Prop. Unmesha Ashesh Patel), SF-211, Magalmurti, Ashram Road, Ahmedabad – 380 007 (hereinafter referred as 'appellant') appeal against Order No. ZA241120029887N dated 06.11.2020 in respect of Rejection of Application for Revocation of Cancellation in Form GST REG-05 (hereinafter referred as 'impugned order') passed by the Deputy Commissioner, CGST & C.Ex., Ghatak 10, Division-VII, Ahmedabad North (hereinafter referred as 'adjudicating authority').

2. The facts of the case, in brief, are that the appellant having G.S.T.I.N 24AGJPJ6562D1ZI had filed revocation application dated 25.09.2020 for revocation of cancellation of their GST Registration, which was rejected on 06.11.2020 vide impugned order due to non submission of reply to the notice issued vide reference no. ZA241020476860U dated 22.10.2020 within time specified therein.

3. Being aggrieved by the impugned order dated 06.11.2020, the appellant has filed the instant appeal on the ground that their request for Revocation of Cancellation of registration has been rejected by the adjudicating authority without giving opportunity of being heard and submitted copies of GST-APL-01 alongwith annexure, DRC-03 for the F.Y. 2018-19 and 2019-20, GST challan for Rs. 38,270/-, SCN and orders. They also requested for condonation for delay in submission of appeal.

4. Personal hearing in the matter was held on 10.06.2021 through virtual mode. Shri Parag Soni, C.A. appeared on behalf of the appellant for hearing. They re-iterated the submissions made in the appeal memorandum and requested to consider their appeal.

5. I have gone through the facts of the case and submissions made in the appeal memorandum. The limited point to be decided is whether the appellant is eligible for the revocation of cancellation of his GST Registration, which was rejected by the adjudicating authority in the impugned order due to non submission of reply to the notice within time.

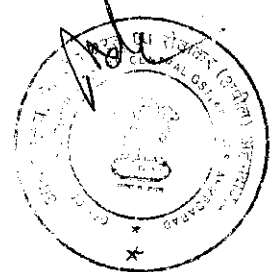


6. The appellant filed an appeal against the order for revocation of cancellation of their GST Registration has been rejected by the adjudicating authority after stipulated time limit of three months from the date of communication of order as required under Section 107 of CGST Act, 2017. It is observed that the appellant filed condonation of delay of 13 days alongwith appeal which is within one month of stipulated time limit and hence I condone the delay in filing appeal.

7. Since the application filed by appellant for revocation of cancellation of their GST Registration has been rejected by the adjudicating authority under the provision of Rule 23 of CGST Rules, 2017, I reproduce relevant part of Rule 23 of CGST Rules, 2017 for Revocation of cancellation of registration for ease of reference:

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.
- (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.



8.1. Perusal of the above provisions make it clear that, revocation of cancellation of registration is based on submission of documentary evidences regarding furnishing of the non-filed returns and payment of the amount due in this respect as tax, interest, penalty and late fee etc. The appellant has contended that, they have filed all their GSTR and paid all their tax liability alongwith late fee till date of cancellation of registration and also ready to discharge their interest liability.

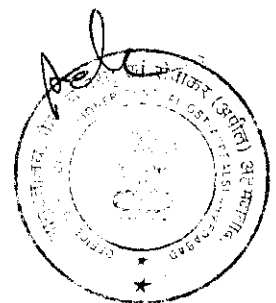
8.2. It is observed that the appellant has contended that the application filed for Revocation of Cancellation of registration has been rejected by the adjudicating authority without giving opportunity of being heard. It is also observed that the appellant had filed pending returns for the period from January-2019 to December-2019 after cancellation i.e in the month of March-2020 and September-2020 and also paid interest amounting to Rs. 38,270/-. Therefore, to verify the documentary evidences regarding furnishing of the non-filed returns and payment of the amount due in this respect as tax, interest, penalty and late fee etc., matter has been referred to the adjudicating authority and the adjudicating authority i.e Deputy Commissioner, Central GST & C.Ex., Division-VII, Ahmedabad North vide their letter F.No. CGST/Div-VII/RRA/Misc. Corr./2020-21 dated 12.07.2021 has now clarified the issue. Relevant para of the said letter is reproduced as under:

It is evident from challan produced by the appellant to the Commissioner (Appeal) amounting to Rs. 38,270/- dated 29.10.2020. As per the said challan produced by the appellant to the Commissioner (Appeal) amounting to Rs. 38,270/- dated 29.10.2020, interest amount paid by the applicant is Rs. 38,270/-. However, interest liability calculated by the JRO is Rs. 1,15,896/- for the returns filed for the period from January, 2019 to December, 2019 i.e returns filed after date of cancellation of return i.e 28.01.2020.

As per Rule 23 of CGST ACT, 2017, revocation of cancellation of registration can only be granted after payment of remaining liabilities.

In view of the above, since the appellant has not paid total interest liability, it still remains to be complied with at appellant's end under Section 30 read with Rule 23 of CGST Act, 2017.

9. It is observed from the verification report received from the jurisdictional Deputy Commissioner and as per provision laid down under the above that the Rule 23 of CGST Act, 2017, the appellant is required to



Furnish all such returns and paid all due amount of tax in terms of such returns along with amount payable towards interest, penalty and late fee in respect of the said returns. In the instant case, it is observed that the appellant had not paid entire amount of interest. Thus, I find that the appellant has not complied with the condition laid down under Section 30 read with Rule 23 of CGST Act, 2017 and the adjudicating authority rightly rejected the application for revocation of cancellation of their GST Registration and hence the contention of the appellant is not acceptable. I therefore do not find any infirmity in the impugned order passed in this respect.

10. In view of the discussions above, I reject the appeal filed by the appellant and uphold the impugned order.

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

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

Mohit Agrawal
23/7/21

(मोहित अग्रवाल)

(Mohit Agrawal)

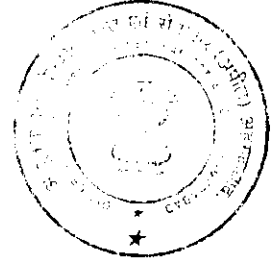
अपर आयुक्त (अपील्स)

Addl. Commissioner (Appeals)

Date: 23.07.2021

Attested

Atulkumar B. Amin
(Atulkumar B. Amin)
Superintendent
Central Tax (Appeals)
Ahmedabad



By R.P.A.D.

To,

M/s. UAP Projects, (Prop. Unmesha Ashesh Patel),
SF-211, Magalmurti,
Ashram Road, Ahmedabad - 380 007

Copy to:

1. The Principal Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner, Central GST & C.Ex, Ahmedabad-North.
3. The Deputy Commissioner, CGST & C.Ex, Division-VII, Ahmedabad North
4. The Additional Commissioner, CGST (System), Ahmedabad-North.
5. Guard File.
6. P.A. File