



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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DIN20210764SW0000116974

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/840/2021-Appeal- O/o COMMR-CGST-APPL-
AHMEDABAD /2402 To 2406

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-002-APP-ADC-26/2021-22
दिनांक Date : 28.07.2021 जारी करने की तारीख Date of Issue : 28.07.2021

श्री मोहित अग्रवाल अपर आयुक्त (अपीलस) द्वारा पारित
Passed by Shri. Shri. Mohit Agrawal, Additional Commissioner (Appeals)

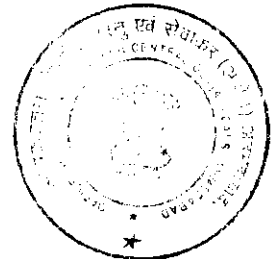
Arising out of Order-in-Original No ZA240221021876V dated 04.02.2021 passed by
Assistant/Deputy Commissioner, CGST & C.Ex Division-VII- Ahmedabad North

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

Appellant- M/s Radhe Earth Movers

Respondent- Assistant 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) <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.



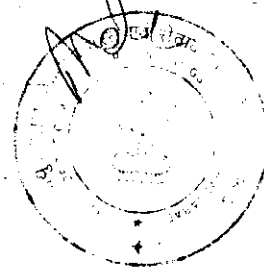
ORDER IN APPEAL

This appeal has been filed by M/s. Radhe Earth Movers, B-102, Home Town, New Ranip, Ahmedabad- 382 480 (hereinafter referred as 'appellant') appeal against Order No. ZA240221021876V dated 04.02.2021 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., 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 24AAUFR6164Q1Z7 engaged in the business of JCB labor excavation contract work and also trading of building materials etc. The appellant had filed revocation application dated 13.11.2020 for revocation of cancellation of their GST Registration after filing returns upto December-2019 and also made advance payment of GST amounting to Rs. 2,29,046/- towards future liability, which was rejected on 04.02.2021 vide impugned order due to non submission of reply to the notice issued vide reference no. ZA241120101220U dated 27.11.2020 within time specified therein.

3. Being aggrieved by the impugned order dated 04.02.2021, the appellant has filed the instant appeal on the ground that:

- Due to Covid-19 pandemic and death of the accountant, appellant was not able to file revocation application in time;
- The appellant has not any knowledge about reason entered in revocation application because, email id registered in GSTN portal is of the accountant's office;
- The appellant after amendment in GSTN portal, filed returns upto December-2019 and also paid advance GST amounting to Rs. 2,29,046/- for future period liability bearing CPIN 20112400151137 dated 12.11.2020 and also paid interest and late fees amounting to Rs. 1,22,400/- bearing CPIN 21042400508479 dated 23.04.2021;
- The appellant submitted copies of manual returns and requested to restore the registration so that they can file all pending returns with applicable interest and penalty as per the provisions of the law;



4.1. Personal hearing in the matter was held on 10.06.2021 through virtual mode. Shri Ramesh Shah, Advocate and Shri Deep Talsania, 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. 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:

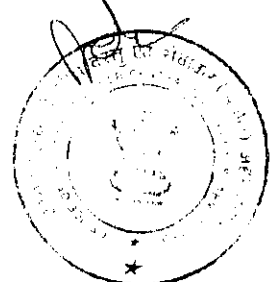
RULE 23. Revocation of cancellation of registration: —

(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.

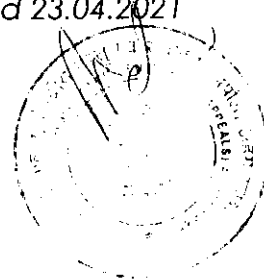


- (3) The proper officer shall, before passing the order referred to in clause (b) of sub-rule (2), issue a notice in **FORM GST REG-23*** requiring the applicant to show cause as to why the application submitted for revocation under sub-rule (1) should not be rejected and the applicant shall furnish 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.

7.1. 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.

7.2. It is observed that the appellant has contended in the appeal memorandums that due to covid-19 pandemic and death of accountant unable to submit reply to notice in time. It is also observed that the appellant had filed all the returns upto the cancellation of their GST registration and also paid advance GST amounting to Rs. 2,29,046/- for their future period liability bearing CPIN 20112400151137 dated 12.11.2020 and also paid interest and late fees amounting to Rs. 1,22,400/- bearing CPIN 21042400508479 dated 23.04.2021. 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/RRAMisc.Corr./2020-21 dated 09.07.2021 has submitted detailed report on the appeal filed by appellant. 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. 1,22,400/- dated 23.04.2021



that the appellant had paid the interest liability after rejection of revocation application. As per the said challan produced by the appellant to the Commissioner (Appeal) amounting to Rs. 1,22,400/- dated 23.04.2021, interest amount paid by the applicant is Rs. 20,700/-. However, interest liability calculated by the JRO is Rs. 2,75,039/- for the returns filed for the period from August, 2018 to December, 2019 i.e returns filed after date of cancellation of return i.e 06.12.2019.

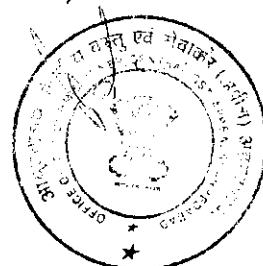
As per Rule 23 of CGST ACT, 2017, revocation of cancellation of registration can only be granted after payment of remaining liabilities.

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.

7.3. Further, the adjudicating authority Deputy Commissioner, Central GST & C.Ex., Division-VII, Ahmedabad North vide their letter F.No. CGST/Div-VII/RRA/Misc.Corr./2020-21 dated 23.07.2021 stated that the taxpayer has deposited Rs. 2,75,040/- on 17.07.2021 which is showing in his cash ledger for the returns filed for the period from August-2018 to December-2019 i.e returns filed after date of cancellation of return i.e 06.12.2019.

8. 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. It is further observed that the appellant further vide their letter dated 17.07.2021 received in this office on 19.07.2021 submitted copy of challan CPIN 21072400175708 dated 17.08.2021 amounting to Rs. 2,75,040/- being interest and also submitted electronic cash ledger as on 17.07.2021 alongwith DRC-3 and requested to consider the same.

9. In view of above discussions, I find that the condition laid down under Section 30 read with Rule 23 of CGST Act, 2017 is required to be verified by the adjudicating authority before revocation of registration and if such contentions are found true the registration may be revoked.



Thus, I direct the adjudicating authority to verify the filing of the returns, payment of the dues till the date of cancellation of registration in respect of the said appellant as laid down under Section 30 read with Rule 23 of CGST Act, 2017 and if the same is found in order the registration may be revoked. However, in case such contentions of the appellant are found false the cancellation of such registration will remain in force.

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

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

(Signature)
28/7/21

(Mohit Agrawal)

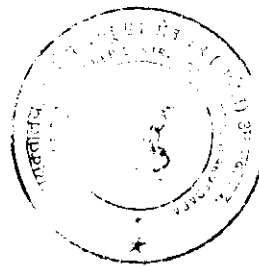
Addl. Commissioner (Appeals)

Date: .07.2021

Attested

(Signature)

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



By R.P.A.D.

To,

M/s. Radhe Earth Movers,
B-102, Home Town,
New Ranip, Ahmedabad- 382 480

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, Central Tax (System), Ahmedabad-North.
5. Guard File.
- ✓ 6. P.A. File