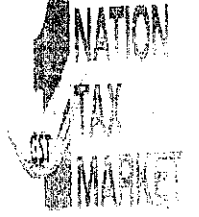




सत्यमेव जयते

आयुक्त का कार्यालय  
Office of the Commissioner  
केंद्रीय 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. : 20211164SW000000CF3F

(क)	फाइल संख्या / File No.	GAPPL/ADC/GSTP/1943 & 2429/2021-APPEAL
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-JC-63 & 64/2021-22 & 30.11.2021
(ग)	पारित किया गया / Passed By	श्री मिहिर रायका, संयुक्त आयुक्त अपील Shri Mihir Rayka, Joint Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of issue	30.11.2021
(ङ)	Arising out of Order No. (1) ZA241220115359Z dated 29.12.2020 issued by Superintendent, Range-II, Division-VII (S G Highway East), Ahmedabad North; (2) ZA241021011185F dated 04.10.2021 issued by Deputy Commissioner, Division-VII (S G Highway East), Ahmedabad North	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s 9 Square Designs (Suraj Ghanshyambhai Parmar) (GSTIN-24ARZPP5738L2ZR); Address:- C-802, Titenium Square, Near BMW Show Room, S G Highway, Thaltej, Ahmedabad, Gujarat-380054

(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 <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 अपीलीय प्राधिकारी को अपील दाखिल करने से संबंधित व्यापक, विस्तृत और नवीनतम प्रावधानों के लिए, अपीलार्थी विभागीय वेबसाइट <a href="http://www.cbic.gov.in">www.cbic.gov.in</a> 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 <a href="http://www.cbic.gov.in">www.cbic.gov.in</a> .

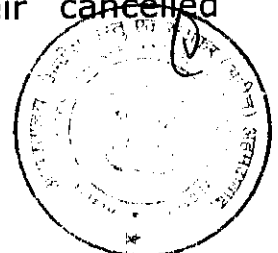
**ORDER IN APPEAL****Brief Facts of the Case :-**

These two appeals have been filed under Section 107 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "*the Act*") by **M/s. 9 Square Designs (Legal Name - Suraj Ghanshyambhai Parmar)**, C-802, Titenium Square, Nr. BMW Showroom, S G Highway, Thaltej, Ahmedabad - 380054 (hereinafter referred to as "*the appellant*") against the following Orders (hereinafter referred to as "*the impugned order*") :

Sr. No.	Order No. & Date	Passed by	Appeal filed on Date
1	ZA241220115359Z / 29.12.2020	Superintendent, CGST, Range - II, Div - VII S G Highway East, Ahmedabad North	18.08.2021
2	ZA241021011185F / 04.10.2021	Deputy Commissioner, Div - VII S G Highway East, Ahmedabad North	29.10.2021

2. Brief facts of the case are that the Superintendent of CGST vide above stated '*impugned order*' has cancelled the GSTIN : 24ARZPP5738L2ZR of M/s. 9 Square Designs (Legal Name - Suraj Ghanshyambhai Parmar), C-802, Titenium Square, Nr. BMW Showroom, S G Highway, Thaltej, Ahmedabad - 380054 with effect from 11.12.2020 due to reason that as the "*appellant*" has not filed GST Returns. Being aggrieved with the said '*impugned order*' dated 29.12.2020, the "*appellant*" has filed above stated appeal on 18.08.2021, i.e. after the delay of normal period prescribed under Section 107(1) of CGST Act, 2017. The "*appellant*" has submitted that due to Covid-19 pandemic situation they were facing financial hardship and thus failed to make GST Payments regularly and therefore, failed to file GST Returns in time. The "*appellant*" has further stated that they have filed all the pending returns till date of cancellation of GST Registration i.e. upto December-2020.

In the meantime before deciding the aforesaid appeal the *appellant* has filed "*Application for Revocation of Cancellation*" on 02.09.2021 in terms of CBIC's Notification No. 34/2021-Central Tax dated 29.08.2021 and CBIC's Circular No. 158/14/2021-GST with the jurisdictional CGST Authority in connection with their cancelled



registration. In response to said application a SCN dated 20.09.2021 was issued to the appellant by the Deputy Commissioner, CGST, Division – VII, Ahmedabad North. In the said SCN it was alleged that

1. Reasons entered for revocation is not appropriate.
2. Interest amount of Rs.1,06,028/- is outstanding, so, registration cannot be revoked until payment of outstanding dues.

Thereafter, the Deputy Commissioner, CGST, Division – VII, Ahmedabad North has rejected the said "*Application for Revocation of Cancellation*" vide aforesaid *impugned order* dated 04.10.2021. Being aggrieved with the said '*impugned order*' dated 04.10.2021, the "*appellant*" has filed another appeal on 29.10.2021 within the period prescribed under Section 107(1) of CGST Act, 2017 with this appellate authority. In the appeal memo the "*appellant*" has submitted that they have paid the amount of Rs.106028/- till 19.09.2021 which were reflected in Interest column in electronic cash ledger, but they were not aware of filing of form DRC-03 and hence their "*Application for Revocation of Cancellation*" was rejected. Considering the above facts the appellant has requested to set aside the impugned order and allow their appeal.

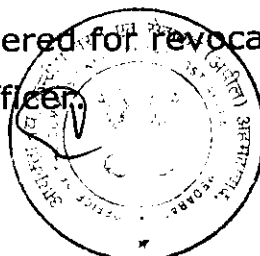
**Personal Hearing :-**

3. Personal Hearing in the matter was through virtual mode held on 26.11.2021. Shri Krushang S. Makwana, Chartered Accountant, appeared on behalf of the '*appellant*' as authorized representative. During P.H. he has reiterated the submissions made till date.

**Discussion and Findings :-**

4. I have gone through the facts of the case as well as written submissions made by the '*appellant*'. I find that the appellant has preferred both the appeals for the sole purpose of revocation of their cancelled GST registration. Accordingly, both the appeals have been taken together for decision and issuance of common order.

Further, I find that main issue to be decided in the instant case is (i) whether the appeal has been filed within the prescribed time- limit and (ii) whether the appeal filed against the order of cancellation of registration can be considered for revocation/restoration of cancelled registration by the proper officer.



5. First of all, I would like to take up the issue of filing the appeal and before deciding the issue of filing the appeal on merits, it is imperative that the statutory provisions be gone through, which are reproduced, below:

**SECTION 107. Appeals to Appellate Authority.** — (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.

(2) .....

(3) .....

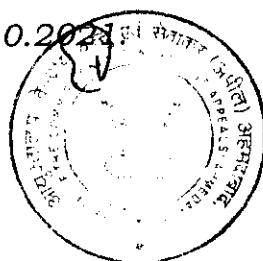
(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a **further period of one month**.

6.1 I observed that in the instant case the first appeal has been filed against cancellation GST registration by delay from the normal period prescribed under Section 107(1) of the CGST Act, 2017. I find that though the delay in filing the appeal is condonable only for a further period of one month provided that the appellant was prevented by sufficient cause from presenting the appeal is shown and the delay of more than one month is not condonable under the provisions of sub section (4) of Section 107 of the Central Goods and Service Tax Act, 2017.

6.2 Further, in the above context, I find that the Hon'ble Supreme Court has passed order on 23.09.2021 in matter of Miscellaneous Application No. 665 of 2021, in SMW(C) No. 3 of 2020. The relevant para No. 8 (I) of said order is reproduced as under :

8. Therefore, we dispose of the M.A. No. 665 of 2021 with the following directions:-

I. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 02.10.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2021, if any, shall become available with effect from 03.10.2021.



In the present matter of first appeal, the "impugned order" is of 29.12.2020 so, the normal appeal period of three months was available upto 28.03.2020 whereas, the appeal is filed on 18.08.2021. However, in view of above Para 8(I) of the order of Hon'ble Supreme Court the said first appeal is considered to be filed in time.

**6.3** I also find that the CBIC, New Delhi has issued Circular No. 157/13/121-GST dated 20<sup>th</sup> July, 2021 and clarified as under:-

*4(c):- Appeals by taxpayers/ tax authorities against any quasi- judicial order:-Wherever any appeal is required to filed before Joint/ Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where a proceeding for revision or rectification of any order is required to be undertaken, the time line for the same would stand extended as per the Hon'ble Supreme Court's order.*

*5. In other words, the extension of timelines granted by Hon'ble Supreme Court vide its Order dated 27.04.2021 is applicable in respect of any appeal which is required to be filed before Joint/ Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various courts against any quasi-judicial order or where proceeding for revision or rectification of any order is required to be undertaken, and is not applicable to any other proceedings under GST Laws.*

**6.4** In view of above and also looking into the **Covid-19 pandemic situation** in the instant matter, I am inclined to condone the delay of filing of first appeal. Therefore, I find that the first appeal is filed within stipulated time limit. Further, I find that the second appeal against order dated 04.10.2021 of the Deputy Commissioner, CGST, Division - VII, Ahmedabad North is filed on 29.10.2021. So, it is filed within the prescribed time limit.

Accordingly, I am proceeded to decide the case.

**7.** I have gone through the facts of the case and the written submissions made by the *appellant*. I find that the adjudicating authority/proper officer has cancelled the registration with effect from 11.12.2020 as the *appellant* failed to file GST Returns.

Further, I find that the provisions of revocation of cancellation of registration when the same is cancelled by the proper



officer on suo moto basis are contained in Section 30 of the CGST Act, 2017 and Rule 23 of the CGST Rules, 2017. Therefore, I find it pertinent to refer Section 30 and Rule 23 as under: -

**SECTION 30. Revocation of cancellation of registration. — (1)**

*Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order :*

*[Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended, -*

*(a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding thirty days;*

*(b) by the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a).]*

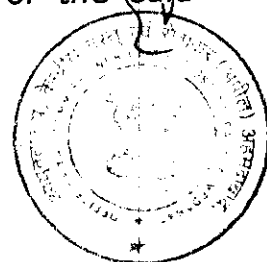
*(2) The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application :*

*Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.*

*(3) The revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.*

**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 :



*[Provided further that all returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of thirty days from the date of order of revocation of cancellation of registration :*

*Provided also that where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of thirty days from the date of order of revocation of cancellation of registration.]*

(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.

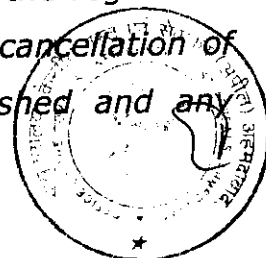
(b) The proper officer may, for reasons to be recorded in writing, under circumstances other than those specified in clause (a), by an order in **FORM GST REG-05\***, reject the application for revocation of cancellation of registration and communicate the same to the applicant.

(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. Further, I find that the Central Board of Indirect Taxes & Customs, New Delhi has clarified the issue vide circular No. 99/18/2019-GST dated 23.04.2019. Para 3 of said circular read as under:

3. First proviso to sub-rule (1) of rule 23 of the said Rules provides that if the registration has been cancelled on account of failure of the registered person to furnish returns, no application for revocation of cancellation of registration shall be filed, unless such returns are furnished and any

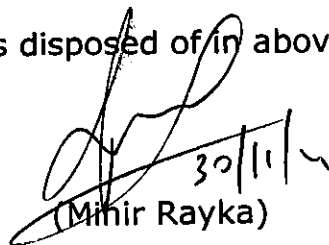


amount in terms of such returns is paid. Thus, where the registration has been cancelled with effect from the date of order of cancellation of registration, all returns due till the date of such cancellation are required to be furnished before the application for revocation can be filed. Further, in such cases, in terms of the second proviso to sub-rule (1) of rule 23 of the said Rules, all returns required to be furnished in respect of the period from the date of order of cancellation till the date of order of revocation of cancellation of registration have to be furnished within a period of thirty days from the date of the order of revocation.

9. On going through the records/submissions, I find that the *appellant* has declared in the appeal memorandum that they have filed GST Returns till December - 2020 i.e. till the date of cancellation of registration. In support of same the *appellant* has also produced the copy of status of filing of GST Returns. Further, as regards to outstanding amount of interest of Rs.1,06,028/- the *appellant* has stated that they have paid the said amount and also filed DRC-03 with ARN AD241021001160C dated 05.10.2021 and produced copy of same. Hence, I find that the *appellant* has complied with the above said provisions in the instant case. Therefore, I am of the opinion that the registration of *appellant* may be considered for revocation by the proper officer subject to due compliance of the conditions by the *appellant* under Rule 23(1) of CGST Rules, 2017. Accordingly, I allow the appeals of the *appellant* and order to the proper officer to consider the revocation application of the *appellant* after due verification of payment particulars of tax, penalty, late fee, interest and status of returns.

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

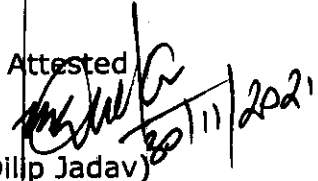
10. The appeals filed by the appellant stands disposed of in above terms.

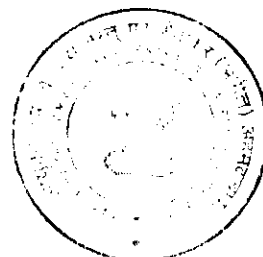
  
(Mihir Rayka)

Joint Commissioner (Appeals)

Date: 30.11.2021

Attested

  
(Dilip Jadav)  
Superintendent  
Central Tax (Appeals)  
Ahmedabad





By R.P.A.D.

To,

M/s. 9 Square Designs

(Legal Name – Suraj Ghanshyambhai Parmar),

C-802, Titenium Square, Nr. BMW Showroom,

S G Highway, Thaltej, Ahmedabad – 380054

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., Ahmedabad-North.
4. The Deputy/Assistant Commissioner, CGST & C. Ex, Division-VII – S G Highway (East), Ahmedabad North.
5. The Additional Commissioner, Central Tax (System), Ahmedabad North.
6. Guard File.
7. P.A. File

