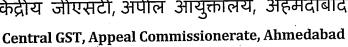


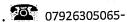
आयुक्त (अपील) का कार्यालय,

Office of the Commissioner (Appeal), केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद

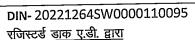


जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015



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क फाइल संख्या : File No : <u>GAPPL/ADC/GSTP/1162/2022 -APPEAL</u>

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-002-APP-ADC-117/2022-23
दिनाँक Date: 19-12-2022 जारी करने की तारीख Date of Issue: 20-12-2022

श्री मिहिर रायका_अपर आयुक्त (अपील) द्वारा पारित

Passed by Shri. Mihir Rayka, Additional Commissioner (Appeals)

শ Arising out of Order-in-Original No. **ZA241220123798P DT. 31.12.2020** issued by Superintendent, CGST & CX, Range-IV, Division-I, Ahmedabad North

ध अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent Satish Kumar LaljiBhai Patel of M/s. Meet Art , 1119, First Floor, Pragati Marriage Hall, Nr. KrishnaNagar, Nr. Priya Talkies, Saijpur Bogha, Naroda , Ahmedabad, Gujarat-382346

Krisiiialvagar, W. Friya Tamas, Say	
(A)	इस आदेश(अपील) से व्यथित कोई व्यक्ति निम्निलिखित 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)	in relation to which the appeal has been filed. 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 वेबसाइटwww.cbic.ggvin.को देख सकते हैं।
	िलए, अपोलाथा विभागाय वेबसाइट www.chr. हुँ भूगी किए, अपोलाथा विभागाय वेबसाइट www.chr. हुँ भूगी किए, अपोलाथा विभागाय वेबसाइट www.chr. हुँ किए, अपोलाथा किए, अपोल

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ORDER-IN-APPEAL

M/s SatishKumar LaljiBhai Patel [Legal Name – Meet Art], 1119, First Floor, Pragati Marriage Hall, Nr. KrishnaNagar, Nr. Priya Talkies, Saijpur Bogha, Naroda, Ahmedabad, Gujarat - 382346 (hereinafter referred to as "the appellant") has filed the present appeal on dated 20-04-2022 against Order No. ZA241220123798P, dated 31-12-2020 (hereinafter referred to as the impugned order) passed by the Superintendent, CGST, Range-IV, Division-I-Naroda, Ahmedabad-North (hereinafter referred to as "the adjudicating authority").

- 2. Briefly stated the fact of the case is that the appellant was registered-under GSTIN 24BONPP3935B1ZZ. The appellant was issued Show Cause Notice Reference Number AA241220052945H, dated 18-12-2020 for cancellation of their registration due to failure to furnish returns for a continuous period of six months. The adjudicating authority vide the impugned order ordered for cancellation of registration with effect from 16-12-2020 on the ground No response received. Hence Reg. cancelled. Being aggrieved the appellant filed the present appeal for revocation of cancellation of their registration number.
- 3. The opportunity for personal hearing was given to the appellant on 17.10.2022, 16.11.2022 and 22.11.2022. The appellant has not responded on any date of the hearing. The appellant neither appeared for hearing nor has sought any adjournment in the proceedings. He maintained a discreet silence in the matter. Therefore, I proceed to decide the matter on merit of the case.

I have carefully gone through the facts of the case, grounds of appeal and documents

available on record. At the outset, I find that the impugned order was communicated to the appellant on dated 31-12-2020 and present appeal was filed on dated 20-04-2022 i.e. after a period of fifteen months hence the appeal was filed beyond the time limit prescribed under Section 107 of the Act. As per Section 107 (1) of CGST Act, 2017, the appellant was required to file appeal within 3 months from the date of communication of the said order. Further, as per Section 107(4) ibid, the appellate authority has powers to condone delay of one month in filing of appeal, over and above the prescribed period of three months as mentioned above, if sufficient cause is shown. Thus, the total time limit available to the appellant for filing of appeal is four months from the date of communication of order. The appellant has mentioned that delay occurred due to financial difficulties because of Covid-19 pandemic situation. They were in financial difficulties during 2020-21 & 2021-22 and continuous unable to maintain GST return on time due to liquidity issue. As per Hon'ble Supreme. Court's Order dated 10-1-2022 in suo motu writ petition (C) NO.3 of 2020 in MAU.

No.665/2021, excluding the period from 15-3-2020 till 28-2-2022 in computing time limitation and providing 90 days extension from 01-03-2022 in filing appeals, I hold that the present appeal is not hit by time limitation.

5. I find that in this case the registration was cancelled due to non filing returns for continuous period of six months under Section 29 (2) of CGST Act, 2017. It was alleged in the impugned order that the appellant has not responded. In this regard, I refer to relevant provisions contained under CGST Rules prescribing procedure for revocation of cancellation of registration as under:

Rule 23 of CGST Rules, 2017: 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 [or within such time period as extended by the Additional Commissioner or the Joint Commissioner or the Commissioner, as the case may be, in exercise of the powers provided under the proviso to sub-section (1) of section 30, 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.

6. As per Rule 23 of CGST Rules, 2017, in case of cancellation of registration due to non filing of returns, the registered person need to file an application for revocation of cancellation of registration with proper officer within the prescribed time period after filing returns and paying applicable dues. Thus statutory provision envisage to apply for revocation of cancellation of registration only after filing the returns till the month of cancellation and after paying applicable dues. In the subject case the registration was cancelled with effect from 16.12.2020 due to non filing of returns for a continuous period of six months. The appellant has sought relief in appeal for activation of his GST registration. However, the appellant has not furnished copy of returns filed till December, 2020 [till the effective date of cancellation of GST registration] and also evidences of payment of dues while filing appeal. I find from the GST portal that the appellant has filed last GSTR-3B return till April 2020 only. Therefore, due to non filing of returns till December, 2020, I find that there is non-compliance of proviso to Rule 23 on the part of

F.No.: GAPPL/ADC/GSTP/1162/2022-APPEAL

appellant. I find that despite a lapse of a substantial period the appellant has failed to file the due GST returns as provided under the GST law. Since the appellant has sought relief without complying with the proviso to Rule 23 of CGST Rules, 2017, I do not accept the plea raised for revocation of cancellation of GST registration. Accordingly, I upheld the impugned order and reject the appeal filed by the appellant.

7. 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.

Additional Commissioner (Appeals)

Date: 19.12.2022

Attested

(Ajay Kumar Agarwal) Superintendent (Appeals) Central Tax,

Ahmedabad.

By R.P.A.D.

To,
M/s SatishKumar LaljiBhai Patel,
[Legal Name – Meet Art],
1119, First Floor, Pragati Marriage Hall,
Nr. KrishnaNagar, Nr. Priya Talkies,
Saijpur Bogha, Naroda,
Ahmedabad, Gujarat - 382346

Copy to:

- 1. The Principal Chief Commissioner of Central Tax, Ahmedabad Zone.
- 2. The Commissioner [Appeals], CGST & C.Ex., Ahmedabad.
- 3. The Commissioner, CGST & C.Ex., Ahmedabad-North.
- 4. The Additional Commissioner, Central Tax (Systems), Ahmedabad North.
- 5. The Assistant Commissioner, CGST & C. Ex., Division-I-Naroda, Ahmedabad- North.
- 6. Phe Superintendent, CGST & C. Ex., Range-IV, Division-I-Naroda, Ahmedabad North.
- 7. Guard File.
- 8. P. A. File.



