



सत्यमेव जयते

आयुक्त का कार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeals Ahmedabad Commissionerate
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी, अहमदाबाद-380015
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By Regd. Post

DIN NO. : 20230164SW000000EB41

(क)	फाइल संख्या / File No.	GAPPL/ADC/GSTP/2648/2022 / 25 न 2 - 48
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-ADC-137/2022-23 and 19.01.2023
(ग)	पारित किया गया / Passed By	श्री मिहिर रायका, अपर आयुक्त (अपील) Shri Mihir Rayka, Additional Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of issue	20.01.2023
(ङ)	Arising out of Order-In-Original No. ZA240121003050T dated 01.01.2021 issued by The Superintendent, CGST, Range-III, Division - II, Ahmedabad North Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s M M Plastic (GSTIN-24BWEPP1046C1Z0), B-27, Maruti Ind Park Compound, Vijay Mill Comp. Opp. Fire Station, Naroda Road, Ahmedabad, Gujarat-382345

(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.
	Appeal to be filed before Appellate Tribunal under Section 112(8) of the CGST Act, 2017 after paying –
(i)	(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 .



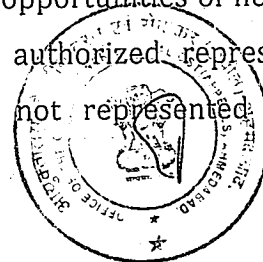
:: ORDER-IN-APPEAL ::

M/s Jagrutiben Vipulbhai Patel, [Trade Name-M M Plastic], B-27, Maruti Ind. Park Compound, Vijay Mill Comp., Opp. Fire Station, Naroda Road, Ahmedabad, Gujarat, 382345 (hereinafter referred to as *"the appellant"*) has filed the present appeal on dated 24-12-2021 against Order No. ZA240121003050T, dated 01-01-2021 (hereinafter referred to as *"the impugned order"*) passed by the Superintendent, CGST & C.Ex., Range-III, Division-II [Naroda Road], Ahmedabad-North Commissionerate. (Hereinafter referred to as *"the adjudicating authority"*).

2. Briefly stated the fact of the case is that the appellant was registered under GSTIN 24BWEPP1046C1Z0. The appellant was issued Notice dated 02-12-2020 for cancellation of their registration for the reasons that - *"Any Taxpayer other than composition taxpayer has not filed returns for a continuous period of six months"*. The adjudicating authority vide impugned order dated 01-01-2021 ordered for cancellation of registration with effect from 01-12-2020 and also mentioned that *"the party has not filed reply and not attended personal hearing"*. Being aggrieved the appellant filed the present appeal for revocation of cancellation of their registration number online on dated 24-12-2021.

3. In the appeal memorandum the appellant contended that their GST registration was cancelled as they did not file GST return due to their consultant's error beyond their knowledge. The appellant has filed an affidavit declaring that their GST Registration was cancelled for non-filing of returns and assured that all the dues/liability will be paid by them on revocation of the registration.

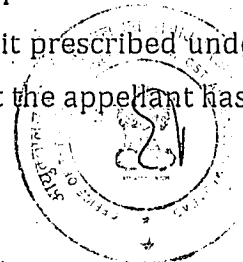
4. Personal Hearings in the matter were granted on 08.12.2022, 16.12.2022 28.12.2022 & 11.01.2023. However despite of granting ample opportunities of hearing, in the interest of natural justice, neither appellant nor any authorized representative appeared to attend the hearing. The appellant has also not represented for any adjournment in the matter.



I proceed to decide the appeal on merit on the basis of available records, submission in the ground of appeal, judicial pronouncements and the legal position in the matter.

5. I have carefully gone through the facts of the case, grounds of appeal, submissions made by the appellant and documents available on record. At the outset, I find that the *impugned order* was communicated to the appellant on dated 01-01-2021 and present appeal was filed on dated 24-12-2021 i.e. after a lapse of more than eleven (11) months, hence the appeal was filed beyond the time limit as prescribed under Section 107 of the CGST Act, 2017. 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. Further, as per Hon'ble Supreme Court's Order dated 10-1-2022 in suo-motu Writ Petition (C) No.3 of 2020 in MA No.665/2021, excluding the period from 15-3-2020 till 28-2-2022 in computing time limitation and providing 90 days extension from 1-3-2022 in filing appeals, I hold that the present appeal is filed between the permissible period allowed by the Apex Court and hence not hit by time limitation.


6. In the subject case the registration was cancelled due to non-filing of returns for a continuous period of six months. The cancellation was ordered with effect from 01-01-2021. As per Rule 23 of CGST Rules, 2017, in case of cancellation of registration due to non-filing of returns under Section 29 (2) of CGST Act, 2017 the registered person needs to file an application for revocation of cancellation of registration with appropriate authority after filing the return and paying applicable tax dues, interest, penalty and late fee. In the subject case, I find that the appellant has not filed any application for revocation of cancellation of their registration within the stipulated time limit prescribed under Rule 23 of CGST Rules, 2017. It can be verified from the GST portal that the appellant has now filed



GSTR-1 and GSTR-3B returns up to November, 2020 i.e. till the cancellation of their registration. In view of the above, since the appellant has filed this appeal for restoration of their registration for continuing their business activity, in the interest of justice, fairness and Government revenue, I allow this appeal to consider revocation of cancellation of their registration. I further order that the appropriate authority may consider their request for restoration of GST registration, made in consequent to this Order, in accordance with provisions of CGST Act and Rules framed under and instructions in force after verification of all dues & liabilities paid by the appellant. Accordingly, I set aside the impugned order and allow 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.


19/01/23
(Mihir Rayka)

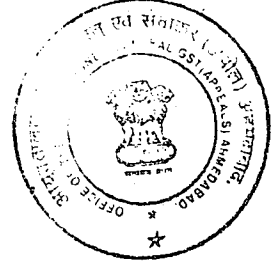
Additional Commissioner (Appeals)

Date: 19.01.2023

Attested


20/1/23

(Ajay Kumar Agarwal)
Assistant Commissioner (In-situ) (Appeals)
Central Tax, Ahmedabad.



By R.P.A.D.

To,
M/s Jagrutiben Vipulbhai Patel,
[Trade Name-M M Plastic],
B-27, Maruti Ind Park Compound,
Vijay Mill Comp., Opp. Fire Station,
Naroda Road, Ahmedabad, Gujarat, 382345

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 Assistant Commissioner, CGST & C.Ex., Division-II [Naroda Road], Ahmedabad- North.
5. The Superintendent, CGST & C.Ex., Range-III, Division-II [Naroda Road], Ahmedabad- North.
6. The Superintendent [Systems] , CGST (Appeals), Ahmedabad.
- ✓ 7. Guard File.
8. P. A. File.

