



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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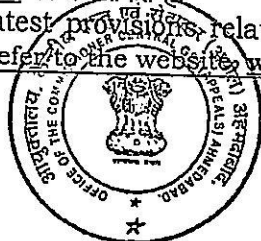
आजादी का
अमृत महोत्सव

By Regd. Post

DIN NO. : 20230164SW0000583776

(क)	फाइल संख्या / File No.	GAPPL/ADC/GSTP/3316/2022 / 2652 - 58
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-ADC-139/2022-23 and 23.01.2023
(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	24.01.2023
(ङ)	Arising out of Order-In-Original No. ZA240822043267M dated 08.08.2022 issued by The Superintendent, CGST, Range-IV, Division-II, Ahmedabad North Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Krishna Corporation (Rajesh Ratilal Shiroya), 1st Floor, I-202, Satadhar Greens, Nr. Janseva Kendra, Nikol Naroda Road, Ahmedabad

(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.
(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 .



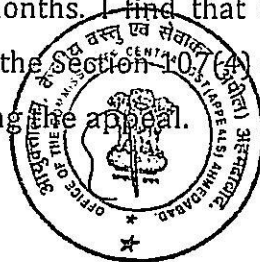
:: ORDER-IN-APPEAL ::

Shri Rajesh Ratilal Shiroya [Trade Name- M/s Krishna Corporation], 1st Floor, I-102, Satadhar Greens, Nr. Janseva Kendra, Nikol-Naroda Road, Ahmedabad, Gujarat, Pin-382350 (hereinafter referred to as "*the appellant*") has filed the present appeal on dated 24-11-2022 against Order No.ZA240822043267M dated 08.08.2022 (hereinafter referred to as "*the impugned order*") passed by the Superintendent, CGST& C.Ex., Range-IV, 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 24BLSPS6776F1ZC. The appellant was issued Show Cause Notice No. ZA240722042425T, dated 08-07-2022 for cancellation of their registration for the reasons that "*Failure to furnish returns for a continuous period of six months*". The *adjudicating authority* vide impugned order dated 08-08-2022 ordered for cancellation of registration with effect from 02-08-2021 and also mentioned that "*Nobody appeared for personal hearing on scheduled date and time. As the taxpayer failed to file return for more than six months their registration is hereby cancelled*". Being aggrieved the appellant filed the present appeal for revocation of cancellation of their registration number online on dated 23-11-2022 and on 24.11.2022 in physical form along with certified copy of order & other documents .


3. Personal Hearing in the matter was held on 20.01.2023 wherein Shri Dharmeshbhai P. Patel, Advocate, appeared in person on behalf of the '*Appellant*' as authorized representative. During the P.H. he reiterated the submissions made by them till date.

4. I have carefully gone through the facts of the case, grounds of appeal, submissions made by the appellant and documents available on record. The appellant was required to file the appeal within 3 months from the date of communication of the said order as per Section 107 (1) of CGST Act, 2017. I find that in the instant case the impugned order was issued on 08-08-2022 and the appeal was filed on 24-11-2022 i.e. after a period of three months hence the appeal was filed beyond the time limit as prescribed under Section 107 (1) of the Act, i.e. delayed by 17 days. Further, as per Section 107(4) of CGST Act, 2017, the appellate authority has powers to condone the delay of one month in filing of appeal, over and above the prescribed period of three months. I find that the present appeal is within the condonable period. Therefore, in view of the Section 107(4) of the CGST Act, 2017, I condone the delay of 17 days occurred in filing the appeal.



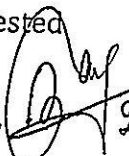
5. In the subject case the registration was cancelled due to non-filing of returns for a continuous period of six months. The cancellation was ordered with effect from 02-08-2021. As per Rule 23 of CGST Rules, 2017, in case of cancellation of registration due to non-filing of returns under Section 29 (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. I find that the appellant has now filed GSTR-1 returns up to September, 2021 and GSTR-3B returns up to August, 2021 i.e. till the cancellation of their registration, as per the status ascertained from the GST portal. 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.

6. 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.


(Mihir Rayka)
Additional Commissioner (Appeals)

Date: 23.01.2023

Attested


24/1/23

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



By R.P.A.D.

To,
Shri Rajesh Ratilal Shiroya,
[Trade Name- M/s Krishna Corporation],
1st Floor, I-102, Satadhar Greens,
Nr. Janseva Kendra,
Nikol-Naroda Road,
Ahmedabad, Gujarat
PIN- 382350

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-IV, Division-II [Naroda Road], Ahmedabad- North.
6. The Superintendent [Systems], CGST (Appeals), Ahmedabad.
- ✓ 7. Guard File.
8. P. A. File.

