



सत्यमेव जयते

आयुक्त का कार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय

Central GST, Appeals Ahmedabad Commissionerate
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DIN NO. : 20230364SW0000555EDD

(क)	फाइल संख्या / File No.	GAPPL/ADC/GSTP/124/2023-APPEAL / 1006-12
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-ADC-163/2022-23 & 28.02.2023
(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	01.03.2023
(ङ)	Arising out of Order No. ZA240822068800L dated 16.08.20220 issued by Superintendent, Range-V, Division-VI, Ahmedabad North Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Jayesh Jagdishchandara Nagar (Prop. of VBR Ceramics), Stavan Parishray, G-504, B/h Sankus Farm, Gota, Dascroi, Ahmedabad, Gujarat-380081

(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

M/s Jayesh Jagdishchandra Nagar (Prop of VBR Ceramics), Stavan Parishray, G-504, B/h Sankus Farm, Gota, Dascroi, Ahmedabad - 380 081 (hereinafter referred to as "the appellant") has filed the present appeal against the Order for Cancellation of Registration issued vide Order No. ZA240822068800L dated 16.08.2022 (hereinafter referred to as the impugned order) passed by the Superintendent, Range V, Division-VI, 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 24ABYPN2478G1Z4. The appellant was issued Show Cause Notice for cancellation of their registration due to failure to furnish returns for a continuous period of six months. Subsequently, the Superintendent, Central GST, Range -V, Division - VI, Ahmedabad North Commissionerate, has passed the impugned order citing the following reasons:- *"Reply not received till date. Failure to furnish returns for a continuous period of six months."*

The effective date of cancellation of your registration is 08.07.2022.

3. Being aggrieved, the appellant filed the present appeal on 24.11.2022, against the impugned order, *inter-alia*, contending that:-

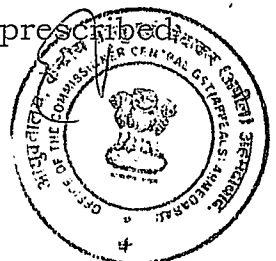
- (i) They have filed all pending returns upto June 2022;
- (ii) they are unable to file returns from July 2022 and onwards;
- (iii) request for revocation of cancelled GST registration;
- (iv) applied for condonation of delay in filing appeal due to poor economic condition and poor health condition as he suffering from hypertension, blood pressure and depression.

Personal Hearing

4. Personal hearing in the case was held on 23.02.2023. Ms Anal Harshit Dalal, Chartered Accountant appeared in person on behalf of the 'Appellant' as authorized representative. She stated that she has nothing more to add to their written submission till date.

Discussion & Findings

5. I have gone through the facts of the case, available records and the written submissions made by the appellant. Before deciding the matter it is to be verified whether the appeal has been filed within the prescribed time- limit or not.



The relevant statutory provisions are reproduced as under:

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. I observed that in the instant case the appeal has been filed by the appellant on 24.11.2022 being aggrieved against the impugned order dated 16.08.2022. Therefore, the appellant is required to file the present appeal on or before 16.11.2022, hence, appeal is filed beyond the normal period of three months under Section 107(1) of the CGST Act, 2017. Further, the appellant has requested for condonation of delay (COD) for further period of one month under Section 107(4) by stating that they have facing poor economic condition and poor health condition as he suffering from hypertension, blood pressure and depression for which the appellant submitted Doctor's Certificate dtd 10.01.2023. The reasons given by the appellant for condonation of delay is found sufficient cause, and also looking to the interest of revenue and government exchequer, I am inclined to condone the delay of 9 days in the present appeal and find this appeal is filed within time limit as prescribed under Section 107(1) & 107(4) of the CGST Act, 2017. Accordingly, I am proceeded to decide the case.

7. I have carefully gone through the case, available records and written submission of the appellant. In the present matter, I find that the appellant had obtained registration under the CGST Act, 2017 but not filed returns for a continuous period of six months and not replied to the Show Cause Notice dated 8.7.2022. Therefore, the appellant's registration was cancelled under provision of Section 29(2) of the Central Goods and Service Tax Act, 2017 (hereinafter referred to as 'CGST Act'), on *suo moto* basis by the jurisdictional proper officer, vide the 'impugned order'.



8. Looking into facts of the case, I find it germane to refer the provisions of revocation of cancellation of registration. The relevant Section 30 of the CGST Act, 2017 and Rule 23 of the CGST Rules, 2017 are reproduced 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.

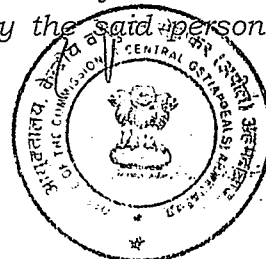
(3) The revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

RULE 23. Revocation of cancellation of registration :-

(1) A registered person, whose registration is cancelled by the proper officer on his own motion, may, subject to the provisions of rule 10B 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 Joint Commissioner or the Commissioner, as the case may be, in exercise of 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.

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.

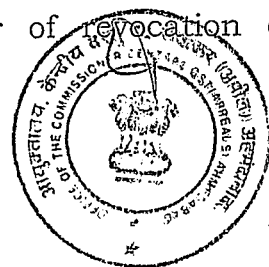
(2) (a) *Where the proper officer is satisfied, for reasons to be recorded in writing, that there are sufficient grounds for revocation of cancellation of registration, he shall revoke the cancellation of registration by an order in FORM GST REG-22 within a period of thirty days from the date of the 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.*

9. On perusal of above Section 30(1), I find that 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. Further, as per first proviso to Rule 23(1) of the CGST Rules, no such application can be filed in cases where 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. Furthermore, as per second proviso to the said rule, it is provided also that where the registration has been cancelled, the registered person shall furnish 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 within a period of thirty days from the date of order of revocation of cancellation of registration.

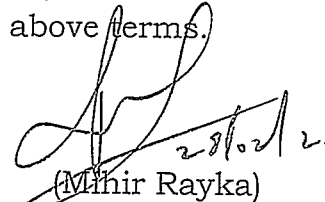


10. I find that registration of the appellant has been cancelled with effect from 08.07.2022. On going through the status of filing of GST Returns on common portal, I find that they have filed their returns in the form of GSTR-1 and GSTR-3B upto the cancellation of their GST registration (i.e upto June 2022). It is obvious that the system does not allow for filing returns for the period falling after the effective date of cancellation of registration. Therefore, second proviso to Rule 23(1) mandates filing of returns for such periods within 30 days from date of revocation of cancellation of registration.

11. In view of above, since the appellant has filed this appeal for revocation or 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 dues paid by the appellant. Accordingly, I set aside the impugned order and allow the appeal filed by the appellant.

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

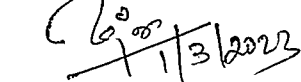
12. The appeals filed by the appellants stand disposed of in above terms.


(Mihir Rayka)

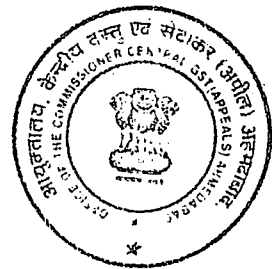
Additional Commissioner (Appeals)

Date: .02.2023

Attested



(Tejas J Mistry)
Superintendent (Appeals)
Central Tax,
Ahmedabad.



By R.P.A.D.

To,
M/s Jayesh Jagdishchandra Nagar (VBR Ceramics),
Stavan Parishray, G-504, B/h Sankus Farm,
Gota, Dascroi, Ahmedabad-380 081.

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 Additional Commissioner, Central Tax (Systems), Ahmedabad North.
5. The Deputy/Assistant Commissioner, CGST & C. Ex., Division-VI, Ahmedabad- North.
6. The Superintendent, CGST & C. Ex., Range-V, Division-VI, Ahmedabad - North.
7. Guard File.
8. P. A. File.



