



# आयुक्त ( अपील ) का कार्यालय,

Office of the Commissioner (Appeal),

केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद

Central GST, Appeal Commissionerate, Ahmedabad

जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015

07926305065-

टेलीफैक्स 07926305136



DIN- 20230364SW000000AD63

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/734/2023 -APPEAL 19637-43

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-002-APP-ADC-167/2022-23**  
दिनांक Date : **20-03-2023** जारी करने की तारीख Date of Issue : **20-03-2023**

श्री मिहिर रायका\_अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. **ZA241122041099Y DT. 09.11.2022** issued by The Superintendent, CGST & CX, Range-I, Division-VII, Ahmedabad North

ध अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent  
**M/s. Securevalue India Limited, 32, Ambica Co-op Hsg Soc. Ltd, Opp Usmanpura Garden, Near Nabard Bank Usmanpura, Ahmedabad, Gujarat-380013**

(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) <b>Full amount of Tax, Interest, Fine, Fee and Penalty</b> arising from the impugned order, as is admitted/accepted by the appellant, and (ii) A sum equal to <b>twenty five per cent</b> 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> .



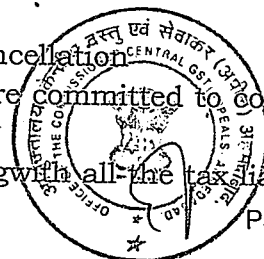
**:: ORDER-IN-APPEAL ::**

M/s Securevalue India Limited [GSTIN-24AARCS3659P1ZF], 32, Ambika Co-Op Hsg. Soc. Ltd., Opp. Usmanpura Garden, Near Nabard Bank, Usmanpura, Ahmedabad, Gujarat – 380 013 (hereinafter referred to as the 'appellant') has filed present appeal against Order for Cancellation of Registration bearing Reference No. ZA241122-41099Y dated 09.11.2022 (hereinafter referred to as 'impugned order'), issued by the Superintendent, Central GST, Range-I, Division-VII [S G HIGHWAY EAST], Ahmedabad North Commissionerate (hereinafter referred to as 'adjudicating authority/proper officer').

2. The brief facts of the case are that appellant was registered under GST, having registration number as 24AARCS3659P1ZF. The appellant was issued a show cause notice No. ZA2410222409008 on dated 28.10.2022 asking that "Whereas on the basis of information which has come to my notice, it appears that your registration is liable to be cancelled for the following reason: Any Taxpayer other than composition taxpayer has not filed returns for a continuous period of six months." Subsequently, the GST registration was cancelled by the Superintendent, Central GST, Range-I, Division- VII [S G HIGHWAY- EAST], Ahmedabad North Commissionerate vide impugned order dated 09.11.2022 citing the following reasons:- "This has reference with your reply dated 08/11/2022 in response to the notice to show cause dated 28/10/2022. Whereas the undersigned has examined your reply and submission made the time of hearing, and is of the opinion that your registration is liable to be cancelled for following reason(s): GSTN has initiated cancellation proceedings for failure to returns for a continuous period of six months. However, the taxpayer has not submitted the returns. Hence registration is cancelled." The effective date of cancellation of GST registration was 28.10.2022.

3. Being aggrieved, the appellant filed the present appeal **on 28.02.2023**, against the impugned order, *inter alia*, contending that:-

- (i) The adjudicating authority has not justified in cancelling the registration;
- (ii) The adjudicating authority has considered the sufficient grounds / causes, unavoidable circumstances and grossly violated the principles of justice as the opportunity for personal hearing was not granted, especially when the proviso to sub-section 2 of Section 29 of the Act states "i. *Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.*";
- (iii) The company is facing working capital constraints due to slow down in the business and non-receipts of payments from their customers;
  - There is no option to pay tax towards the payments not received by the company and tax on partial payments cannot be made;
  - There is no option to make partial payments of tax, the company was unable to file the return from the month of April 2022 to September 2022;
  - Have filed all the returns upto the date of cancellation
- (iv) There was no intention to evade tax, and we are committed to complying with the GST laws in future;
- (v) Undertake to file all pending GST returns alongwith all the tax liabilities,



interest, penalty and late fees as applicable within 30 days of restoration of their GST registration.

- (vi) Condonation of delay of 21 days in filing appeal is requested due to unavoidable reasons and circumstances, as the company is facing working capital constraints due to slow down in the business and non-receipts of payments from various customers. The company holds 20 GSTINs under multiple branches across the country and it was difficult to manage cash flows for making tax payments for all GSTINs across the country when company was undergoing working capital constraints. However, the turnover of the company (PAN based) in FY 2021-22 was around Rs. 497 crores and lot of people like employees, suppliers, customers and many others are dependent on the company, if the company is unable to operate.
- (vii) They placed reliance on in the case of Himalaya Drug Company Vs. Commr. Of Central Tax, Karnataka High Court.

### **Personal Hearing**

4. Personal hearing in the case was held on 16.03.2023 in person. Mr. Snehal Thakkar, CA & Mr. Ilesh Kayastha, Adv., both Authorized Representatives, appeared before the appellate authority on behalf of the appellant, he submitted that they have nothing more to add to their submission.

### **Discussion and Findings :-**

5. I have gone through the facts of the case, written submissions made by the 'appellant'. I find that the 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.

6. 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:

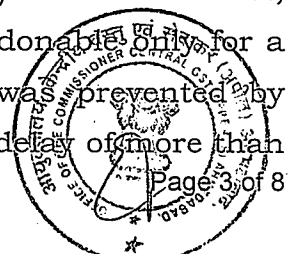
**SECTION 107. Appeals to Appellate Authority.** — (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed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

7. I observed that in the instant case the appeal has been filed 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.

7.1. In the present matter, the "impugned order" is of 09.11.2022, so, the normal appeal period of three months is available up to 09.02.2023 whereas, the present appeal is filed on 28.2.2023. In terms of the Section 107(4) of CGST Act, 2017 as mentioned above, appeal period is further condonable with one month period after showing sufficient cause. The appellant has filed a condonation of delay (COD) application in terms of Section 107(4) of CGST Act, 2017 as they have already filed revocation application with the jurisdictional officer, however, it shows message "Application for revocation of cancelled registration cannot be filed after 90 days from the date of cancellation order." The appellant stated that as the company is facing working capital constraints due to slow down in the business, non-receipts of payments from customers and having multiple branches across the country it was difficult to manage cash flows for making tax payment for all GSTINs across the country. In view of the above in the instant matter, I am inclined to condone the delay of filing of appeal for one month period. Therefore, I find that the present appeal is filed within stipulated time limit. Accordingly, I am proceeded to decide the case.

9. I have carefully gone through the facts of the case, written submissions made by the "Appellant". I find that the *adjudicating authority/proper officer* has cancelled the registration with effect from 28.10.2022 as the "GSTN has initiated cancellation proceedings for failure to returns for a continuous period of six months. However, the taxpayer has not submitted the returns. Hence registration is cancelled."

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: -

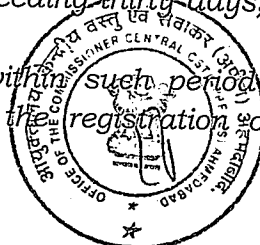
**SECTION 30. Revocation of cancellation of registration.** — (1) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed 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.

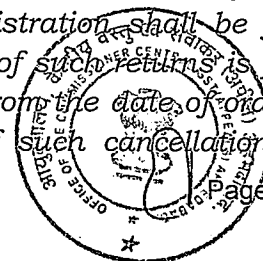
(b) The proper officer may, for reasons to be recorded in writing, under circumstances other than those specified in clause (a), by an order in **FORM GST REG-05\***, reject the application for revocation of cancellation of registration and communicate the same to the applicant.

(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.

10. 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."

11. Further, I find that the appellant contended that as per Section 29(2) of the CGST Act, 2017, they have not been given opportunity of being heard. Relevant Text of the Section 29(2) of the CGST Act is reproduced as below:

**"Section 29: Cancellation or suspension of registration:-**

(1) ....

(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,-

(a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or

(b) a person paying tax under section 10 has not furnished the return for a financial year beyond three months from the due date of furnishing the said return; or

(c) any registered person, other than a person specified in clause (b), has not furnished returns for such continuous tax period as may be prescribed; or

(d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or

(e) registration has been obtained by means of fraud, willful misstatement or suppression of facts:

**PROVIDED that the proper shall not cancel the registration without giving the person an opportunity of being heard:**

PROVIDED FURTHER that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.

(3) ....."

12. On going through the records/submissions, I find from the Show Cause Notice dated 28.10.2022 that the appellant has been given opportunity for personal hearing on 2.11.2022 by the adjudicating authority, however, without being heard the appellant in the matter, the impugned order passed on 9.11.2022 by the adjudicating authority, hence, I find that the adjudicating authority has violated the principles of natural justice as per Section 29(2) of the CGST Act, 2017 and as per the Law. Further, I find that the appellant stated that they have filed their GST returns upto September 2022 on 10.02.2023 and discharged their GST liability amounting to Rs. 1,23,13,214/- with interest of Rs. 11,66,388/- by DRC-03 dated 16.03.2023 (Debit Entry No. DC2403230069150) and late fees of Rs. 25,725/- and filed the application for revocation of cancellation of registration in the FORM GST REG-21 on 27.08.2022 for restoration of their cancelled registration. On being verified



return status on GST portal, I find that the "Appellant" has filed their GST returns upto September 2022 i.e. upto the date of cancellation of registration. Further, the "Appellant" stated that they are assured / committed to pay their all GST liabilities alongwith interest, penalty and late fees till date as per the GST Act. Further, I find that the company is having other 20 GSTINs (PAN Based) across the country and their turnover in the last financial year 2021-22 was around Rs. 497 crores and they were unable to file their last six months GST returns only due to working capital constraints, slow down in the business and non-receipt of payments from their customers. Further, I find that the "Appellant" has complied with the above said provisions in the instant case, I am of the opinion that the appellant should not to suffer any more looking to the interest of government revenue. Needless to say that the "Appellant" shall furnish all the 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.

13. In view of above discussions, 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 appeal 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 fees, interest and status of returns.

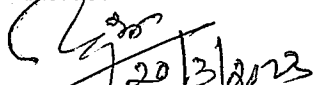
14. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।  
The appeals filed by the appellants stand disposed of in above terms

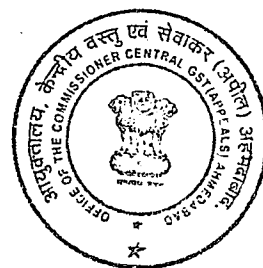
  
(Mihir G Rayka)

Additional Commissioner (Appeals)

Date: 20.03.2023

Attested

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



By R.P.A.D.

To

M/s. Securevalue India Limited [GSTIN-24AARCS3659P1ZF],  
32, Ambika Co-Op Hsg. Soc. Ltd., Opp. Usmanpura Garden,  
Near Nabard Bank, Usmanpura,  
Ahmedabad, Gujarat - 380 013

Copy to:

1. The Principal Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner, CGST & C. Excise, Appeals, Ahmedabad.
3. The Commissioner, Central GST & C. Ex., <sup>Ahmedabad</sup> ~~Central~~ Commissionerate.
4. The Deputy/Assistant Commissioner, CGST & C. Ex, Division- VII [S G HIGHWAY EAST], Ahmedabad North Commissionerate.
5. The Superintendent, CGST & C.Ex., Range-I, Division - VII [S G HIGHWAY EAST], Ahmedabad North Commissionerate.
6. The Additional Commissioner, Central Tax (System), A'bad North Comm'te.
7. The Superintendent (Systems), CGST Appeals, Ahmedabad, for publication of the OIA on website.
8. Guard File.
9. P A File.

