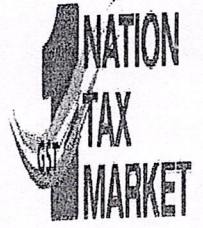




आयुक्त का कार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeal Ahmedabad Commissionerate
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.
GST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015
Phone: 079-26305065 Fax: 079-26305136
E-Mail : commrappl1-cexamd@nic.in



By Regd. Post

DIN NO. : 202220464 SW00004242F

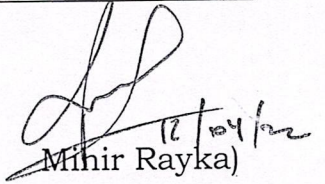
SUBJECT: CORRIGENDUM TO ORDER-IN-APPEAL PASSED IN THE MATTER OF APPEAL FILED BY M/S PIHALI BUILDCON (LEGAL NAME - DEVANG MUKESHKUMAR SUTHAR) (GSTIN-24BJNPS8498D1ZI) AGAINST ORDER NO. ZA2401220063590 DATED 03.01.2022 ISSUED BY THE SUPERINTENDENT, CGST, RANGE-V, DIVISION-VII (S G HIGHWAY EAST), AHMEDABAD NORTH COMMISSIONERATE

In the **Order-In-Appeal** passed by the undersigned, in the matter of appeal filed by M/s Pihali Buildcon (Legal Name - Devang Mukeshkumar Suthar) (GSTIN-24BJNPS8498D1ZI) against Order No. ZA2401220063590 dated 03.01.2022 issued by the Superintendent, CGST, Range-V, Division-VII (S G Highway East), Ahmedabad North Commissionerate, following is wrongly mentioned due to typographical error:-

(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-ADC-119/2021-22 and 07-04-2022
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The above may be read as under:-

(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-ADC-005/2022-23 and 07.04.2022
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Mihir Rayka

Additional Commissioner (Appeals)

File No.- GAPPL/ADC/GSTP/579/2022-Appeal /193-199

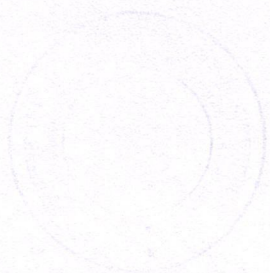
Date: 04/04/2022

To,
M/s Pihali Buildcon (Legal Name - Devang Mukeshkumar Suthar)
(GSTIN-24BJNPS8498D1ZI)
Address:- B/304, Surya Ami Apartments, Opp. Bhavna Society,
Nr. Riddhee Siddhee Society, Ranip, Ahmedabad, Gujarat-382480



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., Ahmedabad-North.
4. The Deputy/Assistant Commissioner, CGST & C.Ex., Division-VII (S G Highway East), Ahmedabad North.
5. The Superintendent, CGST & C.Ex., Range-V, Division- VII (S G Highway East), Ahmedabad North
6. The Additional Commissioner, Central Tax (System), Ahmedabad North.
7. Guard File.
8. P.A. File



Pro. 2011



सत्यमेव जयते

आयुक्त(अपील) का कार्यालय,
Office of the Commissioner (Appeal),
केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद
Central GST, Appeal Commissionerate, Ahmedabad
जीएसटी भवन, राजस्वमार्ग, अम्बावाडी, अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015.

☎ 07926305065- टेलीफैक्स 07926305136



DIN NO. : 20220464SW000000D923

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/579/2022-APPEAL / 105 111

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-002-APP-ADC-119/2021-22**

दिनांक Date : **07-04-2022** जारी करने की तारीख Date of Issue : 07-04-2022

श्री मिहिर रायका अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No **ZA2401220063590** dated **03.01.2022**
issued by Superintendent, Central Goods and Services Tax, Range-V,
Division-VII (S. G. Highway East), Ahmedabad North

घ अपीलकर्ता का नाम एवं पता Name & Address of the **Appellant / Respondent**

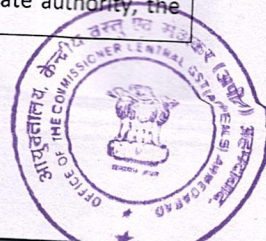
M/s. Pihali Buildcon,

(Legal Name – Devang Mukeshkumar Suthar)

B/304, Surya Ami Apartments, Opp. Bhavna Society,

Nr. Riddhee Siddhee Society, Ranip, Ahmedabad – 382480

(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**Brief Facts of the Case :-**

This appeal has been filed under Section 107 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "*the Act*") by **M/s. Pihali Buildcon (Legal Name – Devang Mukeshkumar Suthar)**, B/304, Surya Ami Apartments, Opp. Bhavna Society, Nr. Riddhee Siddhee Society, Ranip, Ahmedabad – 382480 (hereinafter referred to as "*the Appellant*") against the Order No. ZA2401220063590 dated 03.01.2022 (hereinafter referred to as "*the impugned order*") passed by the Superintendent, CGST, Range- V, Division-VII – S G Highway East, Ahmedabad North (hereinafter referred to as "*the adjudicating authority/ Proper Officer*").

2. Brief facts of the case are that the "*Proper Officer*" has cancelled the GST Registration - GSTIN : 24BJNPS8498D1ZI of M/s. Pihali Buildcon (Legal Name – Devang Mukeshkumar Suthar) for the reason that the "*Appellant*" has not filed GST Returns and not responded to SCN dated 17.12.21. As per '*impugned order*' dated 03.01.2022 the '*Proper Officer*' has cancelled the GST registration with effect from 01.10.2020.

3. Being aggrieved with the '*impugned order*' dated 03.01.2022, the "*Appellant*" has preferred the present appeal on 25.02.2022, i.e. within the normal period prescribed under Section 107(1) of CGST Act, 2017. The "*Appellant*" has submitted that due to Covid-19 pandemic situation their business was not in good position, hence they were suffering with financial problem and therefore, they failed to file the Returns in time. The "*Appellant*" has further submitted that they have filed the GST Returns with Interest and Late Fees till 30.09.2020 and thereafter for period up to 31.03.2022 paid the GST liability with Interest and Late Fees Total Rs.1,43,194/- on 03.02.2022 with Reference No. 20220203110122604594. The "*Appellant*" has accordingly, requested for restoration/revocation of their cancelled GST Registration.

4. Personal Hearing in the matter was through virtual mode held on



09.03.2022 wherein Shri Manoj G. Patel, Advocate appeared on behalf of the "Appellant" as authorized representative to defend the case. During P.H. he has reiterated the written submission made till date and informed that they have nothing more to add into it.

Discussion and Findings :-

5. 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 01.10.2020 as the "Appellant" failed to file the GST Returns and not responded to the SCN dated 17.12.2021.

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.

6. 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.

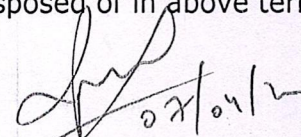
7. On going through the records/submissions, I find that the "Appellant" has filed GST Returns till September – 2020 i.e. till the date of cancellation of registration. In support of same the "Appellant" has also produced the copy of status of filing of GST Returns. Further, in the present appeal the "Appellant" has informed that they have also paid the GST liability with interest and late fees for the further period. Hence, I find that the "Appellant" has complied with the above said provisions in the instant case. Needless to say that the "Appellant" 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.



8. 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 fee, interest and status of returns.

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

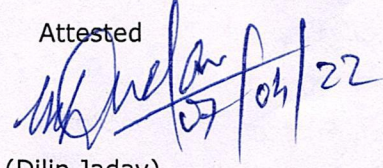
The appeal filed by the appellant stands disposed of in above terms.


(Mihir Rayka)

Additional Commissioner (Appeals)

Date: 07.04.2022

Attested


(Dilip Jadav)

Superintendent
Central Tax (Appeals)
Ahmedabad

By R.P.A.D.

To,
M/s. Pihali Buildcon
(Legal Name – Devang Mukeshkumar Suthar),
B/304, Surya Ami Appartments,
Opp. Bhavna Society, Nr. Riddhee Siddhee Society,
Ranip, Ahmedabad – 382480

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4. The Deputy/Assistant Commissioner, CGST & C. Ex, Division-VII – S G Highway East, Ahmedabad North.
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6. The Additional Commissioner, Central Tax (System), Ahmedabad North.
7. Guard File.
8. P.A. File

