



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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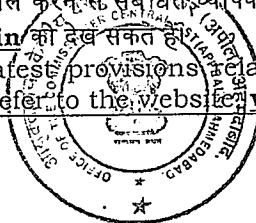


By Regd. Post

DIN NO. : 20220964SW0000222FE5

(क)	फाइल संख्या / File No.	GAPPL/ADC/GSTP/1182/2022 / 3482 - 3488
(ख)	अपील आदेश संख्या और दिनांक / Order-In-Appeal No. and Date	AHM-CGST-002-APP-ADC-067/2022-23 and 27.09.2022
(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	27.09.2022
(ङ)	Arising out of Order-In-Original No. ZA2412190160043 dated 05.12.2019 issued by The Superintendent, CGST, Range-IV, Division - I (Naroda), Ahmedabad North Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s M K Export Import (Legal Name - Mukesh Gopichand Khushalani) (GSTIN-24AJPK9887C2Z7) Shop No. 1-2, Sindhi Colony, Near Jhulelal Temple, Airport Road, Sardarnagar, Ahmedabad, Gujarat-382475

(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 <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> .



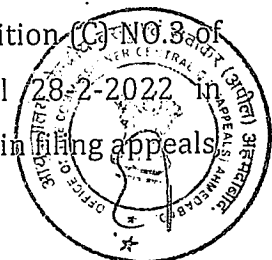
## ORDER-IN-APPEAL

M/s M K EXPORT IMPORT [Legal Name - Mukesh Gopichand Khushalani], Shop No.1-2, Sindhi Colony, Near Zhulelal Temple, Airport Road, Sardarnagar, Ahmedabad, Gujarat - 382475 (hereinafter referred to as "*the appellant*") has filed the present appeal on dated 05-05-2022 against Order No. ZA2412190160043, dated 05-12-2019 (hereinafter referred to as the impugned order) passed by the Superintendent, CGST, Range-IV, Division-I-Naroda, Ahmedabad-North (hereinafter referred to as "*the adjudicating authority*").

2. Briefly stated the fact of the case is that the appellant was registered under GSTIN 24AIJPK9887C2ZV. The appellant was issued Show Cause Notice Reference Number ZA241119098658, dated 26-11-2019 for cancellation of their registration due to failure to furnish returns for a continuous period of six months. The adjudicating authority vide impugned order ordered for cancellation of registration with effect from 05-12-2019 on the ground mentioned in the show cause notice. Being aggrieved the appellant filed the present appeal for revocation of cancellation of their registration number.

3. Personal hearing was held on dated 16-06-2022. Shri Mukesh Gopichand Khushalani, proprietor appeared on virtual mode. He stated that he has nothing more to add to their written submission 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. At the outset, I find that the impugned order was communicated to the appellant on dated 05-12-2019 and present appeal was filed on dated 05-05-2022 i.e. after a period of two years and six months hence the appeal was filed beyond the time limit prescribed under Section 107 of the Act. 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. The appellant has mentioned that due to pandemic time he was not well in financial condition, so his GSTN was cancelled. In the appeal memorandum he mentioned that there was no goods supply and he had not done any transaction during corona period and he is liable to pay penalties due till date. 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 not hit by time limitation.

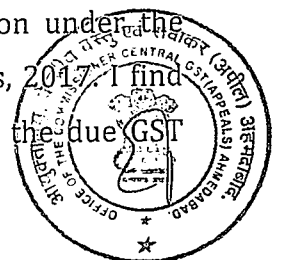


5. I find that in this case the registration was cancelled due to non filing returns for continuous period of six months under Section 29 (2) of CGST Act, 2017. It was alleged in the impugned order that the appellant has not responded and also not filed final returns. In this regard, I refer to relevant provisions contained under CGST Rules prescribing procedure for revocation of cancellation of registration as under:

**Rule 23 of CGST Rules, 2017 :** *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 [or within such time period as extended by the Additional Commissioner or the Joint Commissioner or the Commissioner, as the case may be, in exercise of the 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.*

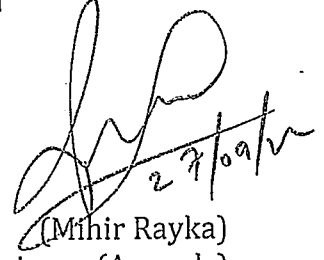
6. As per Rule 23 of CGST Rules, 2017, in case of cancellation of registration due to non filing of returns, the registered person need to file an application for revocation of cancellation of registration with proper officer within the prescribed time period after filing returns and paying applicable dues. Thus statutory provision envisage to apply for revocation of cancellation of registration only after filing the returns till the month of cancellation and after paying applicable dues. In the subject case the registration was cancelled with effect from 05.12.2019 due to non filing of returns for a continuous period of six months. The appellant has sought relief in appeal for activation of his GST registration. However, the appellant has not furnished copy of returns filed till November, 2019 [till the effective date of cancellation of GST registration] and also evidences of payment of dues while filing appeal. I find from the GST portal that the appellant has filed last GSTR3B returns till January, 2019 only. Therefore, due to non filing of returns till November, 2019, I find that there is non-compliance of proviso to Rule 23 on the part of appellant. The appellant vide this office letter dated 21.07.2022 & reminder dated 16.09.2022 has been informed that on being checked the GST returns status, it was noticed that they have not filed the GST returns till the effective date of cancellation of GST registration, as per the requirement for revocation of cancelled registration under the provisions of Section 30 of CGST Act, 2017 read with Rule 23 of CGST Rules, 2017. I find that despite a lapse of a substantial period the appellant has failed to file the due GST



returns as provided under the GST law. Since the appellant has sought relief without complying with the proviso to Rule 23 of CGST Rules, 2017, I do not accept the plea raised for revocation of cancellation of GST registration. Accordingly, I upheld the impugned order and reject the appeal filed by the appellant.

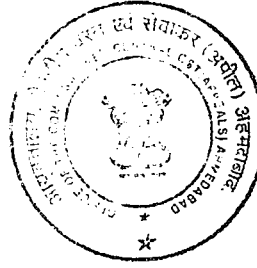
6. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

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

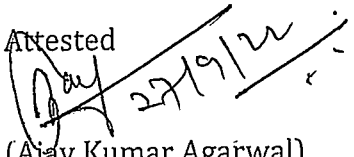
  
(Mihir Rayka)

Additional Commissioner (Appeals)

Date: 27/09/2022



Attested

  
(Ajay Kumar Agarwal)  
Superintendent (Appeals)  
Central Tax,  
Ahmedabad.

By R.P.A.D.

To,  
M/s M K EXPORT IMPORT,  
[Legal Name - Mukesh Gopichand Khushalani],  
Shop No.1-2, Sindhi Colony,  
Near Zhulelal Temple, Airport Road,  
Sardarnagar,  
Ahmedabad, Gujarat - 382475

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-I-Naroda, Ahmedabad-North.
6. The Superintendent, CGST & C. Ex., Range-IV, Division-I-Naroda, Ahmedabad - North.
7. Guard File.
8. P. A. File.

