



सत्यमेव जयते

आयुक्तकाकार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeal Ahmedabad Commissionerate
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.
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DIN NO.: 20231264SW0000999FE0

(क)	फ़ाइल संख्या / File No.	GAPPL/ADC/GSTP/3582/2023 / 119-25
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-CGST-002-APP-JC-119/2023-24 and 27.12.2023
(ग)	पारित किया गया / Passed By	श्री आदेश कुमार जैन, संयुक्त आयुक्त (अपील) Shri Adesh Kumar Jain, Joint Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of Issue	28.12.2023
(ङ)	Arising out of Order-In-Original No. ZA241023245674S dated 30.10.2023 passed by The Assistant Commissioner, CGST, Division-V, Ahmedabad North Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Shahran Khan (LB Bricks) (GSTIN: 24EQBPK1345D1ZD), Sr.No. 468, Kavitha, Bavla, Ahmedabad, Gujarat-382260

(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 <u>twenty five per cent</u> 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:-

M/s. Shahrán Khan (Trade name: LB BRICKS) (GSTIN-24EQBPK1345D1ZD) Sr.No 468, Kavitha, BAVLA, Ahmedabad, Gujarat, 382260 (hereinafter referred to as 'the Appellant') has filed the present appeal against Order No. ZA241023245674S dated 30.10.2023 (hereinafter referred to as 'the impugned order'), for Cancellation of Registration issued by the Assistant Commissioner, CGST, Division-V Dholka, 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-24EQBPK1345D1ZD. The appellant was issued Show Cause Notice date 02.08.2023 for rejection of application for revocation of cancellation of their registration for the "Reason for revocation of cancellation – Others(please specify) –Pl. remain present along with documentary evidence of filing due returns & payment of all due tax liability with interest accrued thereon, penalty/late fee etc. as per CGST Act/Rules". The adjudicating authority vide the impugned order dated 30.10.2023 rejecting the application filed by the appellant for revocation of cancellation of registration passed the following

order:

You have not replied to the notice issued vide reference No.ZA2408230100065 dated 02.08.2023 within the time specified therein. Therefore, your application is hereby rejected in accordance with the provisions of the Act".

3. Being aggrieved with the impugned order the appellant filed the present appeal online on 29.11.2023 for revocation of cancellation of their GST Registration Number, on the following grounds:

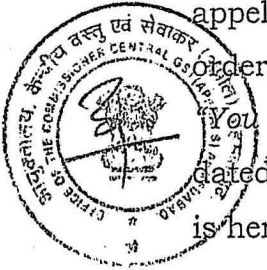
"Due to my brother serve cancer and financial issues I was not able to filed returns so I promise to you I will file GST Returns regularly and pay may all taxes, late fees and interest of this period so please allow me appeal of this"

Personal Hearing :

4. Personal hearing in the case was held virtually on 19.12.2023. Shri Mayur H. Thakkar appeared on behalf of the appellant as authorized person. He submitted that they are ready to pay all taxes, interest and late fees and requested to allow appeal. He further reiterated the written submissions.

Discussion & findings:

5. I have gone through the facts of the case, the impugned order and the grounds of appeal as well as written submissions of the appellant. I find that



(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.

* Enforced w.e.f. 22nd June, 2017.

** Kindly also refer to Notification No. 34/2021 – CT dated 29th Aug, 2021.

1. Substituted for the proviso "Provided that the registered person who was served notice under sub-section (2) of section 29 in the manner as provided in clause (c) or clause (d) of sub-section (1) of section 169 and who could not reply to the said notice, thereby resulting in cancellation of his registration certificate and is hence unable to file application for revocation of cancellation of registration under sub-section (1) of section 30 of the Act, against such order passed up to 31.03.2019, shall be allowed to file application for revocation of cancellation of the registration not later than 22.07.2019"

which was Inserted vide Order No. 05/2019-GST dated 23.04.2020) by s. 122 of The Finance Act, 2020 (No. 12 of 2020) - Brought into force w.e.f. 01st January, 2021 vide Notification No. 92/2020-C.T. dated 22nd December, 2020.

Rule 23. Revocation of cancellation of registration. –

(1) A registered person, whose registration is cancelled by the proper officer on his own motion, may ¹[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 ²[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:

³[**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-



(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.

1. Inserted vide Notification no. 35/2021-CT dated 24.09.2021. Brought into force on 01.01.2022 vide Notification No. 38/2021-C.T., dated 21.12.2021.

2. Inserted vide Notification No. 15/2021-CT dated 18.05.2021.

3. Inserted vide Notification No. 20/2019-CT dated 23.04.2019.

8.2 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.

4. Where the registration has been cancelled with retrospective effect, the common portal does not allow furnishing of returns after the effective date of cancellation. In such cases it was not possible to file the application for revocation of cancellation of registration. Therefore, a third proviso was added to sub-rule(1) of rule 23 of the said Rules enabling filing of application for revocation of cancellation of registration, subject to the condition that all returns relating to the period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration shall be filed within a period of thirty days from the date of order of such revocation of cancellation of registration."

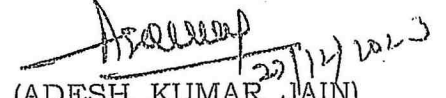
8.3. On going, through the records/submissions, I find that the "Appellant" has filed the GST Returns up to July-2022 i.e. up to the date of cancellation of registration. However, I find that the appellant have submitted that they are ready to pay all taxes, interest and late fee and file all past returns as per legal provisions. They have further assured to file Returns regularly. Hence, I find that the "Appellant" shall be given opportunity for revocation of their registration as per 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.

9. In view of above discussions, I am of the view 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



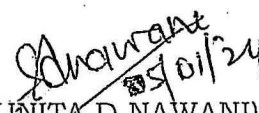
Rules, 2017. Accordingly, I allow the appeal of the "Appellant" and order to the proper officer to consider the revocation application of the "Appellant" after due verification of payment particulars of tax, penalty, late fee, interest and status of returns.

10. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।
10. The appeal filed by the *appellant* stands disposed of in above terms.


(ADESH KUMAR JAIN)
JOINT COMMISSIONER (APPEALS)
CGST & C.EX., AHMEDABAD.

Date: .12.2023

ATTESTED.


(SUNITA D. NAWANI)
SUPERINTENDENT
CGST & C.EX.(APPEALS),
AHMEDABAD.



By R.P.A.D.

To :
M/s. SHAHRAN KHAN (Trade name : LB BRICKS)
SR.NO 468, KAVITHA, BAVLA, Ahmedabad,
Gujarat, 382260. (GSTIN-24EQBPK1345D1ZD)

Copy to:

1. The Principal Chief Commissioner of CGST & C.Ex., Ahmedabad Zone.
2. The Commissioner [Appeals], CGST & C.Ex., Ahmedabad.
3. The Commissioner, CGST & C.Ex., Ahmedabad-North Commissionerate.
4. The Deputy/Assistant Commissioner, CGST & C. Ex., Division-V Dholka, Ahmedabad- North Commissionerate.
5. The Superintendent, CGST & C. Ex., Range-I, Division- V Dholka, Ahmedabad- North Commissionerate.
6. The Superintendent [Systems], CGST & C.Ex., Appeals, Ahmedabad .
7. Guard File/P. A. File.



