



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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(क)	फ़ाइल संख्या / File No.	GAPPL/ADC/GSTP/447/2024 / 1291 - 98
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-CGST-002-APP-JC-139/2023-24 and 05.02.2024
(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	07.02.2024
(ङ)	Arising out of Order-In-Original No. ZA2401240472060 dated 08.01.2024 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 Nirbhay Jayshinh Chandarana (Shree Hari Education Consultancy) (GSTIN: 24AVSPC4556C1ZP) 1 st Floor, Block Number A, Beside CHC Centre, Bavla Dholka Road, S G Highway Extension, Bavla, Nr Pravin Petrol Pump, Ahmedabad, Gujarat- 382220

(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) <u>Full amount of Tax, Interest, Fine, Fee and Penalty</u> 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 अपीलार्थी 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 Nirbhay Jayshinh Chandarana (Trade Name SHREE HARI EDUCATION CONSULTANCY), (GSTIN-24AVSPC4556C1ZP), 1st Floor, Block Number A, Beside CHC Centre, Bavla Dholka Road, S G Highway extension Bavla, Nr Parvin petrol pump, Bavla, Ahmedabad, Gujarat, 382220 (hereinafter referred to as 'the Appellant') has filed the present appeal against Order No. ZA2401240472060 dated 08.01.2024 (hereinafter referred to as 'the impugned order'), for rejection of application for revocation of cancellation of registration, issued by the Assistant Commissioner, CGST, Division-V Dholka, Ahmedabad-North.

2. Briefly stated the fact of the case is that the appellant was registered under GSTIN-24AVSPC4556C1ZP. The appellant was issued Show Cause Notice date 08.08.2023 for cancellation of their registration due to failure to furnish returns for a continuous period of six months and it was stand suspended w.e.f. 08.08.2023. The adjudicating authority vide the impugned Order dated 08.01.2024, due to non compliance of the notice issued vide reference no. ZA241223089401V dated 21/12/2023 within the time specified therein, rejected the application filed by the appellant, in accordance with the provisions of the Act.

3. Being aggrieved with the impugned order the appellant filed the present appeal online on 12-01-2024 and submitted hard copy on 29.01.2024 for revocation of cancellation of their GST Registration Number, on the following grounds:

"Our GST No. was cancelled on 13/09/2023 due to non-filing of GST returns as the accountant was not available for the period. Later we have complied with GST returns filing till September 2023 and have lodged Revocation application on 22/11/2023. PH dated 27/12/2023 was fixed and we were having a time to represent till 02/01/2024 but we were not aware of the same as the email address was not updated in our registration. Even though we could not reach in PH dated 27/12/23 as we were not aware but we have reached department on 01/01/2024 before the given time of 02/01/2024. We have explained our whole matter to (the Asstt.Commr.) (Division V Range V) and she was convinced with our matter and want to approve our Revocation application but meanwhile she was not getting the Approve option in her System,



for which she have also tried to help us by raising a Ticket but still that could not be sorted and she was compulsory required to cancel our Revocation application.”

They have further prayed to reactivate their GST number and committed that they will be regular in their GST Filings and GST Payments.

Personal Hearing :

4. Personal hearing in the case was held on 05-02-2024 virtually. Shri Abhay Thakkar, Chartered Accountant appeared in P.H. on behalf of the appellant. It is submitted that due to technical glitches of system, the Assistant Commissioner was compelled to cancel Registration. He further submitted that they will file the pending Return (Only one Quarter pending) and all the dues immediately as soon as their cancellation of Registration is revoked. They further, requested to allow the appeal.



Discussion & Findings:

5. I have gone through the facts of the case, available records and the written submissions made by the appellant. I observe 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.

I observe that the impugned order was issued on 08.01.2024 by the adjudicating authority and that the appellant has filed the present appeal online on 12.01.2024.

6. I further find it relevant to go through the relevant statutory provisions of Section 107 of the CGST Act, 2017, which is 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**".*

7. Accordingly, I observe that the Appellant was required to file appeal within three (3) months from the receipt of *the impugned order* dated 08.01.2024 i.e on or before 07.04.2024. In the instant case the appellant has filed the present appeal on 12.01.2027 i.e. within the normal period prescribed under Section 107(1) of the CGST Act, 2017. Accordingly, I am proceeding to decide the case.

8. I have carefully gone through the facts of the case, written submissions made by the "Appellant". I observe that the adjudicating authority/proper officer has cancelled the registration with effect from 04.09.2023 (as per services.gst.gov.in) as the "Appellant" failed to file the GST Returns. Further, from the facts submitted, it is also observed that due to technical glitches in the System, the proper officer could not restore their registration and had to compulsorily cancel revocation of Registration application, filed by the Appellant.

8.1 Further, I observe 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 refer the said provisions of Section 30 and Rule 23, the text of the same is reproduced here 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.*

¹**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.

* 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 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.

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.

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 observe 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, it is observed that the "Appellant" has filed the GST Returns up to the Quarter September-2023. However, I observe that the appellant have submitted that they will file the pending Return for the only Quarter remaining i.e. October-December 2023 and pay all the dues immediately on their revocation of cancellation of their registration. Hence, I am of the view that the "Appellant" shall be given opportunity for revocation of cancellation of 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" shall 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". The appellant shall pay all dues including interest, penalty and late fee as per Rule 23 of CGST Rules, 2017.

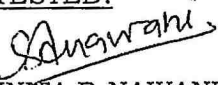
10. अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

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


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

Date: -02-2024.

ATTESTED.


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

By R.P.A.D.

To :

NIRBHAY JAYSHINH CHANDARANA
(Trade Name SHREE HARI EDUCATION CONSULTANCY),
1st Floor, Block Number A, Beside CHC Centre,
Bavla Dholka Road, S G Highway extension Bavla,
Nr Parvin petrol pump, Bavla, Ahmedabad,
Gujarat, 382220.(GSTIN-24AVSPC4556C1ZP)

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, Ahmedabad-North Commissionerate.
5. The Superintendent, CGST & C. Ex., Range-V, Division- V, Ahmedabad-North
6. The Superintendent [Systems], CGST & C.Ex., Appeals, Ahmedabad .
7. Guard File/P. A. File.