



सत्यमेव जयते

आयुक्तकाकार्यालय
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
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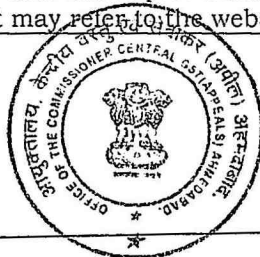


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DIN NO.: 20240264SW0000888BD3

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| (क) | फाइल संख्या / File No. | GAPPL/ADC/GSTP/552/2024 / 2345 - 50 |
| (ख) | अपील आदेश संख्या और दिनांक / Order-In -Appeal and date | AHM-CGST-002-APP-JC-144/2023-24 and 23.02.2024 |
| (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 | 27.02.2024 |
| (ङ) | Arising out of Order-In-Original No. ZA241223041887J dated 11.12.2023 passed by The Deputy Commissioner, CGST, Division-VII, Ahmedabad North Commissionerate | |
| (च) | अपीलकर्ता का नाम और पता / Name and Address of the Appellant | M/s Dharma InfoserviceS Private Limited (GSTIN: 24AAICD1183A1Z7) 13/152, 480, MIG, GHB, Ankur Raod, Near Telephone Exchange, Naranpura, Ahmedabad, Gujarat-380013 |

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| (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 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. Dharma Infoservices Private Limited, 13, 152, 480, GHB, Ankur Road, Near Telephone Exchange, Naranpura, Ahmedabad, Gujarat-380013 (GSTIN 24AAICD1183A1Z7) (hereinafter referred to as the 'Appellant') has filed the present appeal against the Order (Form GST REG-05) No. ZA241223041887J dated 11.12.2023 (hereinafter referred to as the 'impugned order') rejecting application for revocation of cancellation passed by the Deputy Commissioner, CGST &, C. Ex., Division-I, Ahmedabad North Commissionerate (hereinafter referred to as the 'adjudicating authority').

2(i). Briefly stated the facts of the case are that the 'Appellant' is a private limited company engaged in providing KPO and BPO services. The appellant has registered itself with the GST Act since 16.07.2021 vide GSTIN 24AAICD1183A1Z7. Failure to furnish returns for a continuous period of six months department had issued Show Cause Notice vide reference No. ZA240622031844Q dated 07.06.2022 and vide Order No. ZA2407220460033 dated 08.07.2022 department has cancelled their registration under the provisions of Section 29 of the CGST Act 2017 with effect from 01.10.2021 stating that the reply of the SCN has not been received by appellant and appellant has filed last GSTR 3B return for the month September 2021.

2(ii). Therefore appellant has filed application for revocation of cancellation of registration on 01.06.2023. In response to appellant application for revocation of cancellation of registration, Show Cause Notice was issued on 07.06.2023 demanding details of turnover in months of cancellation and proof of payment of challan of pending tax and interest. The Appellant reply to Show Cause Notice on 29.06.2023. Further Adjudicating Authority vide 'impugned order' dated 11.12.2023 rejected the application for revocation of cancellation stating that appellant has not appeared during Personal Hearing and also not submitted any proof for payment of the pending Government dues till effective date and no undertaking given for the payment of the tax dues pending after effective date.

3. Being aggrieved with the *impugned order* the appellant has filed the present appeal on 30.01.2024 mainly on the following grounds:

- *The order of rejection of revocation of registration is against equity law and justice;*
- *The order passed without giving opportunity of being heard;*
- *The order passed without considering reply submitted by the appellant.*

VIRTUAL HEARING:

4. Virtual Hearing in the matter was fixed/held on 09.02.2024 and 20.02.2024, wherein Shri Hem Chhajed, C.A. and Shri Ranjeet Gehlot, C.A. appeared in person on behalf of the 'Appellant' as Authorized Representatives. During Virtual Hearing they have submitted that since no business was conducted so failed to file Nil returns advertantly by ignorance. Now they will file all returns and pay late fees as applicable Reply has been filed but not considered. Order was passed without any reasoning in order. Requested to allow appeal in view of the above and written submission.

Written Submission:

- *The application for revocation of cancellation of registration was rejected arbitrarily without considering the reply filed by the appellant and merely on presumption and surmises that the appellant had not filed reply;*
- *that in the reply to the show cause, the appellants had provided the detailed reply and provided all the necessary documents as desired by the by Dy. Commissioner. The impugned order has passed without ever referring the reply filed by the appellants;*
- *In reference to Summary Order passed in FORM GST REG-05, having Ref. No. ZA241223041887J, dated 11-12-2023, passed by Deputy Commissioner of Division V, Ahmedabad, appellant has been alleged that no documents has not been submitted by the appellant in response to Show Cause Notice. it is submitted that, appellant has made detailed submission dated 29.06.2023 along with all the documents and undertaking as called for;*
- *that non consideration of binding decisions and authorities amounts to breach of natural justice. In this regards reliance is place on decision in case of 2008(232) R.L.t. 389 (Bom.)(Century Textile & Ind. Ltd. vs. Union of India), 2016(332) E.L.t 470(Cal.) (Artee Overseas Pvt Ltd V. Union of india), unreported decision of this Court dated July 5, 2017 delivered in W.P. 15127(W) of 2017 (Electrosteel Castings Limited & Anr. v. The Commissioner, Central Excise, Kolkata-III Commissionerate & Ors.) Therefore, the impugned order stands vitiated by breach of principles of natural justice and is required to be quashed.*
- *The applicant vide its reply dated 29.06.2023 had provided details reply along with undertaking. Further the appellant had also deposited sum in cash ledger towards the late payment fees for the Nil returns to be filed by the appellant;*



- Reliance has been placed of Aggrawal Dyeing & Printing Works 2022(66) G.S.T.L. 348 and of Jain Enterprise v. State of Gujarat: (2024) 15 Centax 293 (Guj)

DISCUSSION AND FINDINGS:

5. I have carefully gone through the facts of the case, grounds of appeal, submission made by the *appellant* and documents available on record. Since the issue relate to rejection of Application for revocation of cancellation of registration, at the outset I refer to relevant statutory provisions governing rejection of application of Amendment of GST registration as under:

Rule 9 of CGST Rules, 2017 :

(2) Where the application submitted under rule 8 is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith, he may issue a notice to the applicant electronically in **FORM GST REG-03** within a period of ³[seven] working days from the date of submission of the application and the applicant shall furnish such clarification, information or documents electronically, in **FORM GST REG-04**, within a period of seven working days from the date of the receipt of such notice.

Provided that where -

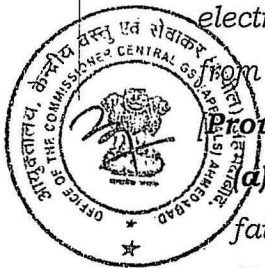
(a) a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number; or

[(aa) a person, who has undergone authentication of Aadhaar number as specified in sub-rule (4A) of rule 8, is identified on the common portal, based on data analysis and risk parameters, for carrying out physical verification of places of business; or]

(b) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,

the notice in **FORM GST REG-03** may be issued not later than thirty days from the date of submission of the application.]

Explanation. - For the purposes of this sub-rule, the expression "clarification" includes modification or correction of particulars declared in the application for registration, other than Permanent Account Number, State,



mobile number and e-mail address declared in **Part A** of **FORM GST REG-01**.

(3) Where the proper officer is satisfied with the clarification, information or documents furnished by the applicant, he may approve the grant of registration to the applicant within a period of seven working days from the date of the receipt of such clarification or information or documents.

(4) Where no reply is furnished by the applicant in response to the notice issued under sub-rule (2) or where the proper officer is not satisfied with the clarification, information or documents furnished, he ⁵[may], for reasons to be recorded in writing, reject such application and inform the applicant electronically in **FORM GST REG-05**.

6(i). In the impugned order Application was rejected as the applicant appellant has not appeared during Personal Hearing and also not submitted any proof for payment of the pending Government dues till effective date and no undertaking given for the payment of the tax dues pending after effective date. However during the course of hearing the appellant submitted that they will file all the returns and pay late fees as applicable. Further the appellant stated that they had provided the detailed reply and provided all the necessary documents as desired by the by Dy. Commissioner. Further they have filed the reply of the SCN on 29.06.2023 alongwith all the documents and undertaking called for but the same has not been considered and order was passed without any reasoning in order.

6(ii). Rule 9 of CGST Rules, 2017 envisage that the proper officer, if not satisfied with the clarification, information or documents furnished, can reject the application for registration for the reasons to be recorded in writing. Proviso 2 to Rule 9 further empowers the proper officer to carry out physical verification of premises. In the subject case, even though the *appellant* has submitted clarification, no reasons were recorded in writing with regard to the same. On the contrary the application was rejected due to unsatisfactory/non submission of compliance to notice.

7. I find that in the present appeal the appellant in the ground of appeals has mainly stated that the Adjudicating Authority has violated and breached the principle of natural justice by passing the order by rejecting application for revocation of cancellation of registration without considering reply submitted by the appellant and without giving opportunity of being heard. In the present matter, ongoing through copy of impugned order, it is observed that no specific reasons for rejection of refund claims have been

recorded by the adjudicating authority. Further the adjudicating authority has not issued any speaking order and also it is not cleared as whether personal hearings have been fixed by the adjudicating authority or not. Therefore, I find that the adjudicating authority has violated the principle of natural justice before issuing the impugned order.

8. In view of above discussions, the impugned order passed by the adjudicating authority is set aside for being not legal and proper. 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. The appellant is also directed to pay all dues as per Rule 23 of the CGST Rules 2017.

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.

Adesh Kumar Jain
23/02/2024

(Adesh Kumar Jain)

Joint Commissioner (Appeals)

Date : 23.02.2024

Attested

Sandheer Kumar
23/02/24
(Sandheer Kumar)
Superintendent
Central Tax (Appeals),
Ahmedabad



By RPAD

To,

M/s. Dharma Info services Private Limited,
13, 152, 480, GHB, Ankur Road,
Near Telephone Exchange, Naranpura,
Ahmedabad, Gujarat-380013.

Copy to :

- 1) The Principal Chief Commissioner, Central tax, Ahmedabad Zone
- 2) The Commissioner, CGST & Central Excise (Appeals), Ahmedabad
- 3) The Commissioner, CGST, Ahmedabad North.
- 4) The Assistant Commissioner, CGST, Division VII, Ahmedabad North.
- 5) The Superintendent (Appeals), CGST, Ahmedabad.
- 6) Guard File
- 7) PA file.

