



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/716/2024 (2566 - 2512)
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-CGST-002-APP-JC-154/2023-24 and 04.03.2024
(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	05.03.2024
(ङ)	Arising out of Order-In-Original No. ZA240124239747I dated 30.01.2024 passed by The Superintendent, CGST, Range-I, Division-III, Ahmedabad North Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Rathod Amit (Amit Hardware) Sur.No. 278, Shop No. 1, Azadnagar, Opposite Anand Ashram, Dholka Road, New Fatewadi, Sarkhej, Ahmedabad, Gujarat-382210


(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::

M/s. Amit Hardware (Trade Name: Rathod Amit), Sur No. 278, Shop No. 1, Azadnagar, Opposite Anand Ashram, Dholka Road, New Fatewadi, Sarkhej, Ahmedabad, Gujarat-382210 (hereinafter referred to as the 'appellant') has filed present appeal against Order of Rejection of application for Registration, bearing Reference No.ZA240124239747I dated 30.01.2024 (hereinafter referred to as 'impugned order'), issued by the Superintendent (CPC), Central GST, Ahmedabad (hereinafter referred to as 'adjudicating authority/proper officer').

2. Briefly stated the fact of the case is that the appellant, establishing a business dealing in construction and hardware materials, filed application for GST registration under ARN AA240124046706G dated 10.01.2024. In respond to appellant application against Rejection of cancellation of Registration, Show Cause Notice was issued on 29.01.2024 vide reference number ZA2401242372408. The Appellant reply to Show Cause Notice. Further Adjudicating Authority vide 'impugned order' dated 30.01.2024 Rejected the application of Registration and passed the following order:



"In response to query i.e. "In the application, Nature of premises shown as own however, customer name reflecting as Rameshbhai Bhikhabhai Jadav in uploaded electricity bill. Apart from this, as per uploaded property tax bill, applicant name shown as occupier. Please upload registered sale deed/Index-2 which substantiate the declared Pr. Place of Business, applicant has uploaded notarized sale agreement which is not a valid document (As per Section 17 of Registration Act, 1908). Hence, application is rejected u/r 9(4) of CGST Rules, 2017. Applicant may appeal before appropriate authorities against this rejection order or apply afresh with proper credentials."

3. Being aggrieved with the impugned order, the appellant filed the present appeal online on 12.02.2024 and offline on 13.02.2024 alongwith following grounds of appeal and documents:

1. Notarised Sale Agreement between Jadav Rameshbhai Bhikhabhai and Rathod Amit Rajeshbhai,
2. Electricity Bill(UGVCL) in name of Rameshbhai Bhikhabhai Jadav and
3. Amdavad Municipal Corporation Tax Bill in the name of Jadav Rameshbhai Bhikhabhai as Occupier

- Misinterpretation of Rule 9(4) of the CGST Rules, 2017: Rule 9(4)

mandates the verification of the application and accompanying documents to ensure the correctness of the information presented. However, it does not explicitly necessitate a registered sale deed to establish control over the business premises for GST registration purposes. The applicant contends that the notarized sale agreement, along with utility and tax bills, sufficiently evidences the requisite control and should be deemed satisfactory for the purpose of Rule 9(4).

- *Comprehensive Documentation Provided:* The applicant has adhered to the documentary requirements outlined by the GST Act, 2017, for registration. The documents submitted were in good faith, with a clear intent to demonstrate ownership and operational control over the specified premises, essential for the commencement of the proposed business activities.
- *Adverse Impact on Business and Economic Contributions:* The rejection not only hinders the Applicant's ability to initiate business operations but also affects the broader economic objective of enhancing the tax base. Granting the GST registration is in line with the government's aim to facilitate business operations and increase revenue through taxation."

Personal Hearing:

4. Personal hearing in the matter was held on 21.02.2024. Shri Sohil U. Malkani, Advocate and Shri Juned U.Malkani, Practitioner, authorized representatives of appellant appeared in the personal hearing. They submitted that property is own and is on notary. No registered sale deed is available. He further submitted that all documents as required under rule have been submitted and reiterated the written Submissions and requested to allow appeal.

Discussion and Findings:

5. I have carefully gone through the case, the appeal memorandum and written submissions filed by the appellant. As per Section 107 of the CGST Act, 2017, the appellant is required to file the appeal within three months time period. In the present case, the appellant has filed the present appeal online on 12.02.2024 and offline on 13.02.2024 against the impugned order dated 30.01.2024. Hence, the appeal is to be considered as filed in time.

6(i). Now, the main issue in the matter is whether the impugned order passed by the Adjudicating Authority / Proper Officer for rejection of registration is proper or not? For this, I refer Rule 9 of the CGST Rules, 2017, which is re-produced here under:

“Rule 9. Verification of the application and approval. -

(1) The application shall be forwarded to the proper officer who shall examine the application and the accompanying documents and if the same are found to be in order, approve the grant of registration to the applicant within a period of ¹[seven] working days from the date of submission of the application:

(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.

(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”



As per the above Rule, if the proper Officer is not satisfied with the clarification, information or documents furnished, he may for reasons to be recorded in writing, reject such application and inform the applicant electronically in FORM GST REG-05. In the present case, the proper officer observed that applicant did not submit registered sale deed/Index-2 and hence rejected the application of the Appellant on the grounds mentioned in the adjudicating order dated 30.01.2024.

7. The appellant in the grounds of appeal submitted that it does not explicitly necessitate a registered sale deed to establish control over the business premises for GST registration purposes. The applicant contends that the notarized sale agreement, along with utility and tax bills, sufficiently evidences the requisite control and should be deemed satisfactory for the purpose of Rule 9(4).

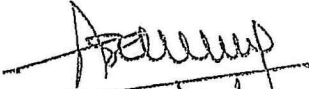
8. Further, the Standard Operating Procedure (SOP) Instruction No.03/2023-GST dated 14.06.2023 issued by the GST Policy Wing, CBIC, New Delhi and the CPC Advisory 01/2017 dated 23.06.2017 dated 23.06.2017 issued by the Directorate of Systems, Chennai prescribes appropriate procedures to be followed by the proper officer for scrutiny of application for

registrations. Nowhere in these instructions it has been asked to seek the notarised documents from the appellant. The appellants have fulfilled all the conditions/requirements as specified in these SOPs and provided requisite documents as required for GST Registration. The adjudicating authority nowhere in the impugned order has discussed the reasons as to which para of SOP, the appellant failed to comply. The impugned order passed by the adjudicating authority is arbitrary, not reasoned and without following the SOP guidelines issued in this regard.

9. In view of the above discussion and findings, the *impugned order* passed by the *adjudicating authority* rejecting application for new registration on the reasons mentioned therein is not legal and proper and thus set aside and the appeal is allowed.

अपीलकर्ताद्वारा दर्ज की गई अपीलकानिपटाराउपरोक्ततरीकेसेकियाजाताहै।

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

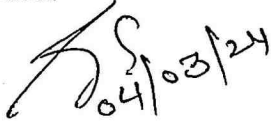

04/03/2024
(आदेश कुमार जैन)

संयुक्त आयुक्त (अपीलस)

CGST & C.EX., AHMEDABAD.

Date: 04.03.2024

Attested.


04/03/24

(Sandheer Kumar)
SUPERINTENDENT,
CGST & C.EX.(APPEALS),
AHMEDABAD.



By R.P.A.D.

To
M/s. Amit Hardware (Trade Name: Rathod Amit),
Sur No. 278, Shop No. 1, Azadnagar,
Opp Anand Ashram, Dholka Road,
New Fatewadi, Sarkhej,
Ahmedabad, Gujarat-382210

Copy to:

1. The Principal Chief Commissioner, CGST & C.Ex., Ahmedabad Zone.
2. The Commissioner, CGST & C. Excise, Appeals, Ahmedabad.
3. The Commissioner, Central GST & C.Ex, Ahmedabad North.
4. The Dy./Assist. Commissioner, CGST & C.Ex, Division-III, Ahmedabad North.
5. The Superintendent(CPC), CGST, Ahmedabad.
6. The Superintendent (Systems), CGST & C.Ex (Appeals), Ahmedabad.
7. Guard File / P.A. File.



