



सत्यमेव जयते

आयुक्तकाकार्यालय  
Office of the Commissioner  
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय  
Central GST, Appeal Ahmedabad Commissionerate  
जीएसटी भवन, राजस्व मार्ग, अम्बावाडी अहमदाबाद ३८००१५.  
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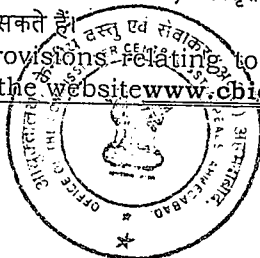


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(क)	फ़ाइल संख्या / File No.	GAPPL/ADC/GSTP/2028/2023 / 3546-2302
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-CGST-002-APP-ADC-29/2023-24 and 27.07.2023
(ग)	पारित किया गया / Passed By	श्री आदेश कुमार जैन, संयुक्त आयुक्त (अपील) Shri Adesh Kumar Jain, Joint Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of Issue	28.07.2023
(ङ)	Arising out of Order-In-Original No. ZA2402232122837 dated 27.02.2023 passed by The Assistant Commissioner, CGST, Division-II, Ahmedabad North Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Shrenikkumar Hiralal Shah (Labdhi Textile), Gf-24, Anmol Laxmi Centre, Nr. Kothi Pole, Opp. Patni Sheri, Gheekanta Road, Ahmedabad - 380001

(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 अपीलार्थी 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****Brief Facts of the Case :-**

This appeal has been filed under Section 107 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "*the Act*") by **M/s. Labdhi Textile (Legal Name – Shrenikkumar Hiralal Shah)**, GF-24, Anmol Laxmi Centre, Nr. Kothi Pole, Opposite Patni Sheri, Gheekanta Road, Ahmedabad – 380 001 (hereinafter referred to as "*Appellant*") against the Order No. ZA2402232122837 dated 27.02.2023 (hereinafter referred to as "*impugned order*") passed by the Assistant Commissioner, CGST, Ahmedabad North (hereinafter referred to as "*the Adjudicating Authority/ Proper Officer*").

2. Facts of the case, in brief, are that the *appellant* is registered under the Central Goods and Services Tax Act, 2017 vide GST Registration GSTIN No. 24ACSPS6492C1Z5. The GST registration of the appellant has been cancelled by the Superintendent, Range-I, Division-II, Naroda Road, Ahmedabad North vide Reference No. ZA240123066888B dated 12.01.2023 for the reason(s) - "*Nobody appeared for personal hearing against Suo moto SCN generated on 09.11.2022 for failure to file six monthly returns with a remarks that action under section 29 has been initiated for cancellation of registration and response has been submitted by the taxpayer which is not acceptable. Therefore, I hereby cancelled the registration w.e.f. ab-initio. Any pending tax arrears, interest or penalty must be deposited immediately. The said cancellation does not affect the liability or other dues for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation. You are therefore, requested to file a final return within three months of the date of cancellation in for GSR-10 through GST common portal. The effective date of cancellation of your registration is 28.07.2017.*"

Further, vide Order No. ZA240223068094U dated 10.02.2023, the department has issued Show Cause Notice for rejection of application for revocation of cancellation of registration for the following reasons:

"*Reason for revocation of cancellation – Other (Please specify) – Pleas submit details of returns filed along with payment made toward tax, pendalty, late fee and etc. with documentary evidences*".

Accordingly, application of the appellant, for revocation of cancellation of registration has been cancelled by the '*Proper Officer*' vide '*impugned order*' dated 27.02.2023 for the reason –

"You have not replied to the notice issued vide reference No.ZA240223068094U dated 10.12.2023 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' has preferred this appeal online on 04.05.2023. The *appellant* has submitted that due to non-filing of GST return their registration has been cancelled. They further submitted that they have filed their last return GSTR-3B for the month of September-2022 and GSTR-01 till November 2022 and computed their liabilities by preparing manual returns and also paid all Taxes, Late Fees and Interest. They also committed that they will pay any additional liability arises at the time of filing GST Returns.

**Personal Hearing:-**

4. Personal Hearing in the matter was held on 26.07.2023 wherein Mr. Viral R Sandhvi, Chartered Accountant appeared on behalf of the *appellant* as authorized representative. During PH he has stated that no transactions were made in the firm, so they have not filed return due to ignorance. Now they want to start business and ready to pay late fee. Since no transaction effected in the firm till date, so no tax liability exist.

**Discussion and Findings :-**

5. I have carefully gone through the facts of the case. I find 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.

6. First of all, I would like to take up the issue of filing the appeal and before deciding the issue of filing the appeal on merits, it is imperative that the statutory provisions be gone through, which are reproduced, below:

**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) .....



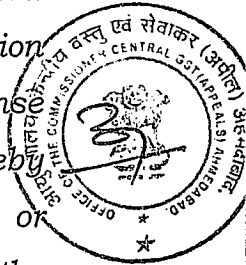
(3) .....

(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. I observed that in the present matter, the "impugned order" is of dated 27.02.2023, so, the normal appeal period of three months is available up to 27.05.2023 whereas, the present appeal is filed online on 04.05.2023. In terms of the Section 107(4) of CGST Act, 2017, I find that the present appeal is filed within stipulated time limit. Accordingly, I am proceeded to decide the case.

8. I have carefully gone through the facts of the case, written submissions made by the "Appellant". I find that the Superintendent, Range-I, Division-II, Naroda Road, Ahmedabad North vide Reference No. ZA240123066888B dated 12.01.2023 has cancelled the registration with effect from 28.07.2017 for the reason(s) -

*"Nobody appeared for personal hearing against Suo moto SCN generated on 09.11.2022 for failure to file six monthly returns with a remarks that action under section 29 has been initiated for cancellation of registration and response has been submitted by the taxpayer which is not acceptable. Therefore, I hereby cancelled the registration w.e.f. ab-initio. Any pending tax arrears, interest or penalty must be deposited immediately. The said cancellation does not affect the liability or other dues for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation. You are therefore, requested to file a final return within three months of the date of cancellation in for GSR-10 through GST common portal. The effective date of cancellation of your registration is 28.07.2017.*



Further, I find that vide Order No. ZA240223068094U dated 10.02.2023, the department has issued Show Cause Notice for rejection of application for revocation of cancellation of registration for the following reasons:

*"Reason for revocation of cancellation - Other (Please specify) - Pleas submit details of returns filed along with payment made toward tax, penalty, late fee and etc. with documentary evidences".*

Further, I find that the "Proper Officer" vide 'impugned order' dated 27.02.2023 has cancelled the application of the appellant, for revocation of cancellation of registration for the reason -

*"You have not replied to the notice issued vide reference*

No.ZA240223068094U dated 10.12.2023 within the time specified therein. Therefore, your application is hereby rejected in accordance with the provisions of the Act".

9. Further, I find 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 find it pertinent to refer Section 30 and Rule 23 as 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 :

[**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.

**RULE 23. Revocation of cancellation of registration.** — (1) 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 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 :

**[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-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.



**10.** 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.*

**11.** In the present case the date of cancellation of registration is 12.01.2023. On going through the records/submissions, returns filing status on GST Portal, I find that the "Appellant" has filed the GSTR-1 upto November'2022 & GSTR-3B up to September'2022. Further, during the personal hearing held on 26.07.2023 the authorized representative submitted that since no transaction effected in the firm till date so no tax liability exist. Further, the appellant has submitted that they have already computed their liabilities by preparing manual returns and also ready to pay all Taxes, Late Fees and interest. The appellant also committed that they will pay any additional liability arises at time of filing GST Returns. 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.

**12.** In view of above discussions, I am of the opinion 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.

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*  
27/07/2023

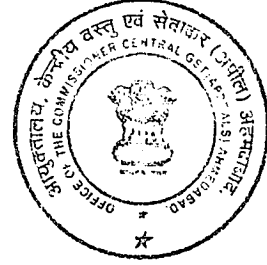
(Adesh Kumar Jain)

Joint Commissioner (Appeals)

Date: 27.07.2023

Attested

*Sandheer Kumar*  
22/07/2023  
(Sandheer Kumar)  
Superintendent (Appeals)



By R.P.A.D.

To,  
M/s. Labdhi Textile,  
(Legal Name - Shrenikkumar Hiralal Shah),  
GF-24, Anmol Laxmi Centre,  
Nr. Kothi Pole, Opposite Patni Sheri,  
Gheekanta Road,  
Ahmedabad - 380 001.

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 Dy/Assistant Commissioner, CGST, Division-II, Ahmedabad North.
5. The Superintendent, Range - I, Division - II, Ahmedabad North.
6. The Superintendent (Systems), CGST Appeals, Ahmedabad.
7. Guard File.
8. P.A. File

