



आयुक्त (अपील) का कार्यालय,
Office of the Commissioner (Appeal),
केंद्रीय जीएसटी, अपील आयुक्तालय, अहमदाबाद
Central GST, Appeal Commissionerate, Ahmedabad
 जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.
 CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015
 07926305065- टेलीफैक्स 07926305136



DIN-202202645W0000818210

रजिस्टर्ड डाक ए.डी. द्वारा

- क फाइल संख्या : File No : GAPPL/ADC/GSTP/2092/2021-APPEAL / 6244 - 6419
- ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-126/2021-22**
 दिनांक Date : **17-02-2022** जारी करने की तारीख Date of Issue : **18-02-2022**
 श्री मिहिर रायका अपर आयुक्त (अपील) द्वारा पारित
 Passed by Shri. Mihir Rayka, Additional Commissioner (Appeals)
- ग Arising out of Order-in-Original No. **ZA240220042280F DT. 13.02.2020** issued by
 Superintendent, Ghatak 23, Range IV, Division V (Odhav), Ahmedabad South
- घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
Shri Pravinbhai Maganbhai Prajapati of M/s. Veerkrupa Powder Coating, 3 Kailash Industrial Estate, part 2, Karm Gas Agency, Odhav, Ahmedabad 382415

(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

Shri Pravinbhai Maganbhai Prajapati of M/s.Veerkrupa Powder Coating, 3, Kailash Industrial Estate, part 2, Karm Gas Agency, Odhav, Ahmedabad 382 415 (hereinafter referred to as 'the appellant') has filed the present appeal on dated 30-9-2021 against Order No.ZA240220042280F dated 13-2-2020 (hereinafter referred to as 'the impugned order') passed by the Superintendent, Ghatak 23, Range IV, Division V (Odhav) Ahmedabad South (hereinafter referred to as 'the adjudicating authority').

2. The appellant was registered under GSTIN 24AVQPP5677B1Z8. The appellant was issued show cause notice reference number ZA240220042280F dated 30-12-2020 proposing cancellation of their registration on the ground that the appellant has not filed returns for a continuous period of six months. The adjudicating authority vide impugned order ordered cancellation of their registration with effect from 13-2-2020 due to following reasons:

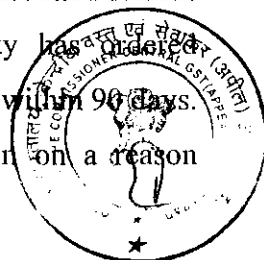
You are requested to file GSTR10 and fulfill any other tax liabilities within 90 days.

3. Being aggrieved the appellant filed the present appeal on the ground that their HST number was cancelled on 13-2-2020 for not filing returns under suo motto ; that their GST return filing work was handled by their accountant who expired in the month of September 2020 ; that there was complete lockdown for more than three months nationwide ; that their bill books were not accessible during that period ; that in the month of December 2020 they came to know that their GST number was cancelled. In view of above submissions the appellant requested to revoke cancellation of their GST registration so that they can file all pending GST returns with tax, interest and late fees as applicable.

4. Personal hearing was held on dated 22-12-2021. Shri Devang Prakash Shukla, authorized representative appeared on behalf of the appellant on virtual mode. He stated that he had nothing more to add from their side, till date.

5. I have carefully gone through the facts of the case, grounds of appeal, submissions made by the appellant and documents available on record. At the outset, I find that the impugned order was communicated to the appellant on dated 13-2-2020 and present appeal was filed on 30-9-2021 ie after a period of 19 months and hence the appeal was filed beyond the time limit prescribed under Section 107 of the Act. However as per Hon'ble Supreme Court's Order dated 23-3-2020 and Order dated 27-4-2021, extending the time limit for filing of appeal, I hold that the present appeal is not hit by time limitation factor.

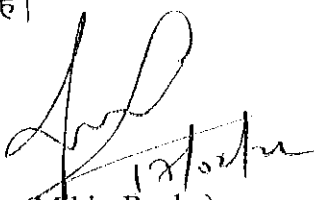
6. In the subject case, show cause notice dated 30-1-2020 was issued to the appellant proposing cancellation of their registration on the ground that the appellant has not filed returns for a continuous period of six months. However the adjudicating authority has ordered cancellation asking the appellant to file GSTR10 and fulfill any other tax liability within 90 days. Apparently, the adjudicating authority has ordered cancellation of registration on a reason



beyond the charges leveled in the show cause notice issued to the appellant. Moreover cancellation of registration was ordered requiring the appellant to file GSTR10 and to pay applicable taxes within 90 days which by any means cannot be considered as a reason for cancellation of registration. I find that as per Section 45 read with Section 29 (1) of CGST Act, 2017 read with Rule 20 of CGST Rules, 2017 read with CBIC Circular No.69/43/2018-GST dated 26-10-2018 the necessity to file GSTR 10 return arise in case of cancellation of registration as per application filed by the registered person and that the GSTR10 is the last return to be filed when the registered person cease to continue their business operations. I have verified GST portal and find that cancellation of registration was suo moto initiated by the tax officer and not by tax payer. Besides, the reason given in the impugned order is also not covered under any of the circumstances specified under Section 29 of CGST Act 2017 governing provisions for cancellation of registration. Therefore I find that cancellation of GSTIN registration by asking the appellant to file GSTR10 return and to fulfill tax liability is not in accordance with the statutory provisions governing cancellation of registration. Nevertheless, I find from GST portal that the appellant has filed GSTR3B and GSTR1 returns for six month period prior to February 2020. As per Rule 23 of CGST Rules, 2017, in case of cancellation of registration due to non filing of returns under Section 29 (2) of CGST Act, 2017 the registered person need to file an application for revocation of cancellation of registration with appropriate authority after filing the return and paying applicable tax dues, interest, penalty and late fee. In the subject case it is not brought on record as to whether the appellant has filed any application for revocation of cancellation of their registration within the stipulated time limit prescribed under Rule 23 of CGST Rules, 2017. However, since the appellant has sought relief in appeal for restoration of their registration for continuing their business activity, to file returns and pay applicable tax after complying with the requirement prescribed under proviso to Rule 23 of CGST Rules, 2017, I find it appropriate to set aside the impugned order and allow this appeal for restoration of their GST registration. Therefore, I order that the appropriate authority may consider revocation of cancellation of their registration subject to the provisions of CGST Act and Rules made there under. Accordingly I set aside the impugned order and allow the appeal filed by the appellant.


अपील कर्थाद्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

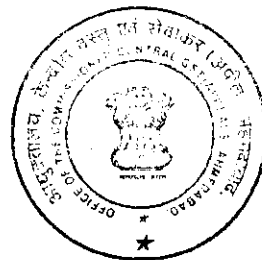
7. The appeal filed by the appellant stands disposed of in above terms.


(Mihir Rayka)

Additional Commissioner (Appeals)

Date :
Attested


(Sankar Ram B.P.)
Superintendent
Central Tax (Appeals),
Ahmedabad



By RPAD

To,

Shri Pravinbhai Maganbhai Prajapati
of M/s. Veerkrupa Powder Coating,
3 Kailash Industrial Estate, part 2,
Karm Gas Agency, Odhav, Ahmedabad 382415

Copy to :

- 1) The Principal Chief Commissioner, Central tax, Ahmedabad Zone
- 2) The Commissioner, CGST & Central Excise (Appeals), Ahmedabad
- 3) The Commissioner, CGST, Ahmedabad South
- 4) The Assistant Commissioner, CGST, Division V(Odhav), Ahmedabad South
- 5) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- ✓ 6) Guard File
- 7) PA file

