



सत्यमेव जयते

## 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



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फाइल संख्या : File No : GAPPL/ADC/GSTP/2575/2021 -APPEAL / 6854 - 59

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अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-137/2021-22**

दिनांक Date : **07-03-2022** जारी करने की तारीख Date of Issue : **14-03-2022**

श्री मिहिर रायका अपर आयुक्त (अपील) द्वारा पारित

Passed by Shri. Mihir Rayka, Additional Commissioner (Appeals)

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Arising out of Order-in-Original No. **ZA241210476711 DT. 11.01.2021** issued by Superintendent, CGST, Range V, Division II (Vatva) Ahmedabad South

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अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent

**Shri Rahmanbhai Kabhubhai Sindhi ( R.K. Sindhi) 15, Faizal Park Row House, Near Prem Conductor, Saiyadwadi, Ahmedabad 382445**

(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) <b>Full amount of Tax, Interest, Fine, Fee and Penalty</b> arising from the impugned order, as is admitted/accepted by the appellant, and (ii) A sum equal to <b>twenty five per cent</b> 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 <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

Shri Rahmanbhai Kabhubhai Sindhi (R.K.Sindhi) 15, Faizal Park Row House, Near Prem Conductor, Saiyadwadi, Ahmedabad 382 445 (hereinafter referred to as the appellant) has filed the present appeal on dated 23-11-2021 against Order No.ZA241210476711 dated 11-1-2021 (hereinafter referred to as 'the impugned order) passed by the Superintendent, CGST, Range V, Division II (Vatva) Ahmedabad South. (hereinafter referred to as the adjudicating authority)

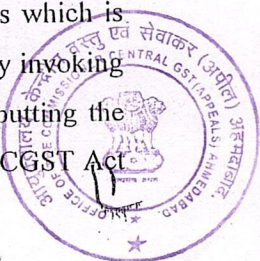
2. Briefly stated the fact of the case is that the appellant GSTIN Registration No.24BLXPS1457E1ZP was canceled by the adjudicating authority with effect from 11-1-2021 under Section 29 (2) (a) and 29 (2) ( e ) read with Section 29 (3) not affecting his liability to pay tax and other dues under this Act or to discharge any obligation under this Act or the Rules made thereunder for any period to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation. The appellant filed appeal against impugned order on the ground that they had already paid GST liability which is reflected in electronic cash ledger. Now they want to file GST returns before 30-11-2021 and want to take benefit of Notification No.34/2021-CT dated 29-8-2021.

3. During appeal proceedings the appellant vide letter dated 4-1-2022 informed that they had already paid their GST liability upto the month of January 2021 and reflected in cash ledger as they are not taking any ITC. As there is no any other technical reason and pending issue in this case and volume of transaction is also less they request to reactivate their GST registration without any hearing if the appellate authority is satisfied with their working and the tax paid by them.

4. 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 11-1-2021 and present appeal was filed on dated 25-11-2021 ie after a period of 11 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 ; Order dated 27-4-2021 and Order dated 23-9-2021, extending the time limit for filing of appeal, I hold that the present appeal is not hit by time limitation factor.

5. I further note that during appeal proceedings the appellant vide letter dated 4-1-2022 requested to reactivate their registration without any hearing. Since the appellant has waived the opportunity of personal hearing I proceed to decide the appeal on merits and on the basis of documents available on record.

6. I find that registration of the appellant was cancelled under Section 29 (2) (a) of CGST Act, which provide for cancellation due to contravention of provisions of CGST Act or the rules made there under as may be prescribed and under Section 29 (2) ( e ) of CGST Act, 2017, which provide for cancellation in cases where registration has been obtained by means of fraud, wilful misstatement or suppression of facts. In the subject case the appellant was issued show cause notice proposing cancellation of registration due to non filing of returns for a continuous period of six months which is covered under Section 29 (2) ( c ) of CGST Act, 2017. Therefore cancelling their registration by invoking Section 29 2 (a) and 29 (2) (e) is beyond the scope of the show cause notice and without putting the appellant into notice. I further find that no reason or evidence indicating any contravention of CGST Act



or Rules other than non filing of returns or any act of fraud, wilful misstatement or suppression of facts on the part of appellant in obtaining GST registration was mentioned in the Order. Therefore I find that cancellation of registration of the appellant under Section 29 (2) (a) and 29 (2) (e) of the Act is not at all a justifiable and sustainable reason.

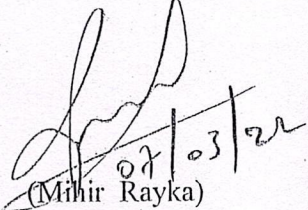
7. However, as per Rule 23 of CGST Rules, 2017, in case of cancellation of registration due to non filing of returns under Section 29 (2) of CGST Act, 2017 the registered person need to file an application for revocation of cancellation of registration with appropriate authority after filing the return and paying applicable tax dues, interest, penalty and late fee. In the subject case the appellant has not filed any application for revocation of cancellation of their registration within the stipulated time limit prescribed under Rule 23 of CGST Rules, 2017. However, in compliance to above Rules, they had submitted copy of GSTR3B return filed for the six month period till January 2021 ie from June 2020 to January 2021 have verified from GST portal and find that the appellant has filed GSTR3B and GSTR1 return for six months period till January 2021. The appellant further stated that they had paid all GST liability and in support of the same they had submitted copy of electronic cash ledger for the period from September 2021 to December 2021.

8. The appellant further stated that they want to avail the benefit of Notification No.34/2021-CT dated 29-8-2021. I find that as per Notification No.34/2021, the time limit for making application of revocation was extended upto the 30th day of September, 2021. However, the appeal in this case was filed only on 23-11-2021 seeking benefit of said Notification which provide for extension till 30<sup>th</sup> September 2021 only. Further Notification covers the cases falling under Section 29 (2) (b) and (c) only whereas the appellant's registration was cancelled under Section 29 (2) (a) and (e). Therefore, I hold the relief and benefit of Notification sought by the appellant is infructuous in this proceedings.

9. In view of above since the appellant has filed this appeal for restoration of their registration after filing GSTR3B and GSTR1 returns for six month period till January 2021 and also paid GST for the above period, I allow this appeal for revocation of cancellation of their GST registration. I further order that the appropriate authority may consider their request for restoration of registration, in consequent to this Order, subject to provisions of Act, Rules and instructions in force and after verification of dues paid by the appellant. 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।


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

  
(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested

  
(Sankara Raman B.P.)  
Superintendent  
Central Tax (Appeals),  
Ahmedabad

By RPAD



By RPAD,

To,  
Shri Rahmanbhai Kabhubhai Sindhi ( R.K. Sindhi)  
15, Faizal Park Row House,  
Near Prem Conductor,  
Saiyadwadi, Ahmedabad 382445

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 Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 5) The Asst./Deputy Commissioner, CGST, Division-II- Vatva, Ahmedabad South
- 6) Superintendent, Range-V, Division-II, Ahmedabad South
- 7) Guard File
- 8) PA file

