



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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DIN-20220364SW0000313258

रजिस्टर्ड डाक ए.डी. द्वारा

- क फाइल संख्या : File No : GAPPL/ADC/GSTP/2082/2021 -APPEAL / 1823-29
- ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-142/2021-22**
दिनांक Date : **22-03-2022** जारी करने की तारीख Date of Issue : **23-03-2022**
श्री मिहिर रायका अपर आयुक्त (अपील) द्वारा पारित
Passed by Shri. Mihir Rayka, Additional Commissioner (Appeals)
- ग Arising out of Order-in-Original No. **ZA2406210233921 DT. 07.06.2021** issued by Superintendent, CGST, Division VI (Vastrapur), Ahmedabad South
- घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
Vicky Tourism Pvt. Ltd. Amaranth Business Centre-I,
30/A Sardar Patel Nagar Society, Off CG Road, Navrangpura, Ahmedabad-380009

(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

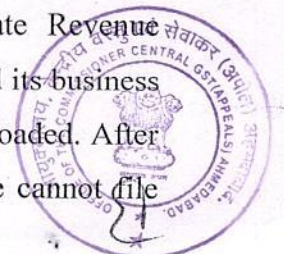
M/s.Vicky Tourism Private ltd, Amarnath Business Centre I, 30A, Sardar Patel Nagar Society, Off CG Road, Navrangpura, Ahmedabad 380 009 (hereinafter referred to as the appellant) has filed the present appeal on dated 7-7--2021 against Order No.ZA2406210233921 dated 7-6-2021 (hereinafter referred to as `the impugned order) passed by the Superintendent, CGST, Range IV, Division VI (Vastrapur) Ahmedabad South. (hereinafter referred to as the adjudicating authority)

2. Briefly stated the fact of the case is that the appellant registered under GSTIN Registration No.24AACCV6714D2ZL. The appellant has applied for cancellaton of registration vide application dated 19-5-2018. The appellant was issued show cause notice dated 1-6-2021 asking them whether all the returns have been filed till the date of cancellation and where there are any outstanding Government dues if any. Thereafter the adjudicating authority vide impugned order rejected their application on the ground the cancellation has been applied ex post facto with effect from 31-12-2017.

3. Being aggrieved the appellant filed the present appeal on the following grounds :

i. They had filed application for cancellation of registration on 19-5-2018 which is three years ago and it is the fault of the Department that they had not issued any SCN within 30 days neither had rejected the order. The same was issued after three years on 1-6-2021 and even after proper reply the same was rejected on 7-6-2021. So it was not retrospective then when the application was filed. But then how the Department/Superintendent can tell now after three yeast that it cannot be granted? Due to the fault of the Department is it justified that the assessee now will have to bear huge late fees for filing Nil returns for the period of three years without having any business activities? It is not justified.

ii. They had already applied for surrender/cancellation of their registration vide application dated 19-5-2018 which was transmitted online and application was filed on 19-5-2018. The Department has not issued any SCN neither had rejected the order within thirty days. The Department has also not intimated anything regarding the same in these long three years but after three years 1 month and three days SCN was issued and even after proper reply it was rejected which is not justified. The Department has rejected the application after three years without having recording the fact that it is the fault of the Department and not the assessee that SCN was issued after three years which is not justified ; Since all the relevant documents had already been submitted and provided that with effect from 1-1-2018 business was merged with Baroda GSTIN and with effect from 1-1-2018 all returns and taxes were uptodate filed till and neither Central nor State Revenue Department was not hampered at all. The assessee has already closed/merged its business in Ahmedabad branch after December 2017 and till then all returns were uploaded. After filing application for cancellation of registration on 19-5-2018 the assessee cannot file



further GST returns till order is rejected. The Department/Superintendent must have notify/intimate/show cause the assessee either hard/soft copy within 30 days from filing the application but SCN was issued after 3 years 1 month and 3 days which was not justified at all. Though the show cause notice was issued after long time still the appellant had given needful and satisfactory reply against the SCN and drafted their reply accordingly on 7-6-2021 along with satisfactory evidences and documents and had also confirmed that no tax was due and revenue authority was not hampered in any way and all taxed with effect from 1-1-2018 was paid under Baroda GSTIN since business was clubbed and no business were done in Ahmedabad branch after 31-12-2017. But still the application was rejected without any fault of the assessee which was not justified. It is the fault of the Department that SCN was issued after more than three years instead of 30 days from the date of filing of application and rejecting the same by giving reason that it was retrospective but it was no fault of assessee. The assessee had applied for the same on 19-5-2018 but if Department/Superintendent issue SCN and reject the order after 3 years then how the assessee can file returns for the said period? Without having recording these facts the application was rejected. Now why assessee will bear huge late fees without any fault on his behalf but for the fault of the Department which is not justified. After filing application for cancellation of registration on 19-5-2018 the assessee cannot file any further GST returns since it is not allowed by the System till the order is rejected since it has already closed its business and has already applied for cancellation of registration which is not justified. The Department/Superintendent had not issued any SCN, neither had rejected the same application within 30 days from the date of application which was filed on 19-5-2018. The Department/Superintendent had not also intimate anything to the assessee regarding the same in theses long 3 years offline/online which is not justified. In view of above submissions the appellant prayed to consider the grounds of appeal and to cancel their registration with effect from 31-12-2017 as per their application dated 19-5-2018 ; due to fault of the department the assessee should not be punished ; that they seek to attract the attention towards the Departmental fault and harsh/rough decision taken by the Superintendent by rejecting the same without recording the above facts against which the assessee is appealing ; that in the pandemic era of covide it is not justified that the assessee will now have to bear huge late fees for filing Nil returns for the said period of three years in which business was not done which is not justified at all ; that they will justice and appellant order in their favor where there is no involvement of any tax revenue or any default on behalf of the assessee.

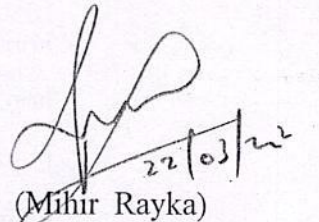
4. Personal hearing was held on dated 15-3-2022. No authorized person appeared on behalf of the appellant but one person named Shri Raj Chattejee appeared and revealed that they have applied for cancellation before. He has been instructed to communicate through authorized person only. Accordingly Shri Saurabh Majumdar of M/s.Saurabh Majumdar and Associates, Kolkatta, authorized person of the appellant vide letter dated 17-3-2022, interalia submitted that on 31-12-2021 the Department has listened to their queries and after all proceedings and getting no objections from them their Registration was cancelled and order was duly passed vide Ref

No.ZA241221192175U dated 31-12-2021. Since the order was already passed by the divisional range level Department, the purpose had already been solved and there is no need of appeal for the said purpose. Since there is no online system for withdraw/revoke of appeal till now in portal, hence they are requesting by making this application manually that they want to withdraw/revoke the said filed appeal. They bonfide and solemnly declare that they would like to withdraw/revoke the same filed appeal. They have also attached the order passed by the Division/Range Department and they are fully satisfied with the Order and they don't have any further objections. Since the grounds of appeal for which appeal was filed had already been solved hence they and solemnly declare that they would like to withdraw/revoke the same filed appeal. In view of above the appellant requested to grant and acknowledge this bonafide withdraw/revoke application for withdraw of said filed appeal.

5. I have carefully gone through the facts of the case, grounds of appeal, submissions made by the appellant and documents available on record. In this case appeal was filed against Order passed by the adjudicating authority rejecting the appellant's application for cancellation of registration. During appeal proceedings, the appellant vide letter dated 17-3-2022 intimated that their application for cancellation of registration was considered by the jurisdictional Division/Range Office vide Order issued in Form GST REG 19 Reference No.ZA241221192175U dated 31-12-2021. Accordingly, the appellant has voluntarily and unconditionally withdrawn the present appeal; as the purpose for which the present appeal was filed has been solved. I have also scrutinized the said Order and find that jurisdictional Range Superintendent has ordered cancellation of their registration with effect from 9-12-2021. Since, the appellant has voluntarily and unconditionally withdrawn their appeal, I dismiss the appeal as withdrawn by the appellant.

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


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


22/03/22
(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested


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

By RPAD

To,
M/s.Vicky Tourism Private Ltd,
Amarnath Business Centre I,
30A, Sardar Patel Nagar Society,
Off CG Road,
Navrangpura, Ahmedabad 380 009



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-VI, Ahmedabad South
- 6) The Superintendent, CGST, Division-VI, Ahmedabad South
- 7) Guard File
- 8) PA file

