



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-20220364SW0000333FA4

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/2234/2021 -APPEAL / 7202 - 7208

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-148/2021-22**
दिनांक Date : **28-03-2022** जारी करने की तारीख Date of Issue : **29-03-2022**

श्री मिहिर रायका अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. **ZA2400919002304Q DT. 03.09.2019** issued by Superintendent, CGST, Range 6, Division II (Vatva), Ahmedabad South

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

**M/s. Nandanvan Corporation, Block No. 660, Behind Mahakali Temple,
Village Bhavda Tal- Daskroi, Ahmedabad-382443**

(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.Nandanvan Corporation, Block No.660, Behind Mahakali Temple, Village Bhavda Ta Daskroi, Ahmedabad 382 443 (hereinafter referred to as the appellant) has filed the present appeal on dated 20-10-2021 against Order No.ZA2400919002304Q dated 3-9-2019 (hereinafter referred to as the impugned order) passed by the Superintendent, CGST, Range 6, Division II (Vatva) Ahmedabad South (hereinafter referred to as the adjudicating authority).

2. Briefly stated the fact of the case is that the appellant's GSTIN 24AAHFN0645F1ZL was cancelled by the adjudicating authority with effect from 3-9-2019 for non filing of returns for a continuous period of six months ; non attendance for personal hearing on given date and time. Being aggrieved the appellant filed the present appeal on the ground that the impugned order has been passed without providing any reason and therefore the same is against the principles of natural justice as well as provisions of CGST Act, 2017 and therefore the same is required to be quashed and set aside ; that they had always done business during the period under consideration and has continued to do. In view of above the appellant requested to quash and set aside the impugned order and restore their registration ; that Government has given a relaxation in penalty and they would like to file return and continue their business ; that they had already paid tax and penalty and that they will all pending returns within week after restoration.

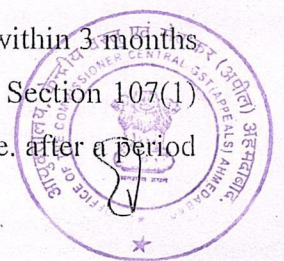
3. Personal hearing was held on dated 16-3-2022. Shri Diwakar patel, authorized representative appeared on behalf of the appellant on virtual mode. He stated that he has nothing more to add to their written submission till date.

4. I have carefully gone through the facts of the case, grounds of appeal, submission 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 3-9-2019 and the present appeal was filed on dated 20-10-2021 ie after two years. In this regard I find it relevant to go through the statutory provisions of Section 107 of the CGST Act, 2017 which is reproduced hereinbelow:

"Sec.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.

(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."

4. Accordingly, it is observed that the Appellant was required to file appeal within 3 months from the receipt of the said order i.e. on or before 2-12-2019, as stipulated under Section 107(1) of the Act. However, the Appellant has filed the present appeal on 20.10.2021, i.e. after a period

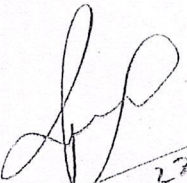


of one and half years from the due date. Further, I also find that in terms of the provisions of Section 107(4) ibid, the appellate authority has powers to condone delay of one month in filing of appeal, over and above the prescribed period of three months as mentioned above, if sufficient cause is shown. Accordingly, I find that there is a delay of one and half year in filing the appeal over and above the permissible period for filing appeal. Thus, I find that the subject appeal was filed beyond the time limit prescribed under Section 107(1) ibid.

5. Further, I also find that in terms of the Hon'ble Supreme Court judgment dated 23.03.2020 and 27-4-2021 read with Circular No. 157/13/2021-GST dated 20.07.2021 the period of limitation prescribed under any General or Special Laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand extended 'till further orders from 15.03.2020. However, I find in the present case that the period of limitation of total 4 months (including condonable period of 1 month) for filing of appeal from the date of communication of impugned order, as prescribed under Section 107 of the CGST Act, 2017 was already completed on 2-1-2020 and hence, the present case would not be eligible for the relaxation/extension granted by the Hon'ble Supreme Court in respect of period(s) of limitation as mentioned above. Accordingly, I find that the further proceedings in case of present appeal can be taken up for consideration only if the present appeal is filed within the time limit prescribed under CGST Act, 2017. It is a well settled principle of Law that the appellate authority cannot condone delay beyond the period permissible under the CGST Act and that when the legislature has intended the appellate authority to entertain the appeal by condoning further delay of only one month, this appellate authority cannot go beyond the power vested by the legislature. In view of above, I hold that the present appeal filed by the appellant merit dismissal as it was filed beyond the stipulated time period. Accordingly I dismiss the present appeal.

अपील कर्था द्वारा 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.


22/05/21
(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested


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

By RPAD

To,

M/s.Nandanvan Corporation,
Block No.660, Behind Mahakali Temple,
Village Bhavda
Ta Daskroi, Ahmedabad 382 443



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-IV, Ahmedabad South
- 6) The Asst./Deputy Commissioner, CGST, Division-IV, Range-IV, Ahmedabad South
- ✓ 7) Guard File
- 8) PA file

