



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-20220364SW000022272C

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/2069/2021 -APPEAL / 7271 - 77

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-150/2021-22**
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. **ZA2410190341590 DT. 12.10.2019** issued by Superintendent, CGST, Range IV, Division I (Rakhial), Ahmedabad South

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
**Shri Rahul Jaipalsingh Bhadoria 12/2, No. 836, Chitrakut Society Part 2,
PD Pandya Collage Road, Ghodasar, Ahmedabad-380050**

(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 Rahul Jaipalsingh Bhadoria 12/2, No. 836, Chitrakut Society Part 2, PD Pandya Collage Road, Ghodasar, Ahmedabad 380 050 (hereinafter referred to as the appellant) has filed the present appeal on dated 27-8-2021 against Order No.ZA2410190341590 dated 12-10-2019 (hereinafter referred to as the impugned order) passed by the Superintendent, CGST, Range IV, Division I (Rakhial) Ahmedabad South (hereinafter referred to as the adjudicating authority).

2. Briefly stated the fact of the case is that the appellant's GSTIN 24BLQPB0732E1ZL was cancelled by the adjudicating authority with effect from 12-10-2019 under Section 29 (2) of CGST Act, 2017 for non filing of returns for a continuous period of six months. Being aggrieved the appellant filed the present appeal on the ground that rejecting registration certificate suo moto is contrary to the provisions of the Act and Rules made thereunder ; that their accountant has failed to prepare and submit GST returns but due to his bad health the appellant has not submitted return to the Department in due time ; the appellant has right to be given proper opportunity for the hearing ; that due to not awareness of technologies they had not regularly checked email and not taken care of show cause notice ; that when SCN was issued it is mandatory to give personal hearing before taking action but the respondent has not given personal hearing notice and reminder before cancellation of registration number and hence cancellation of registration number is invalid and against Law and unconstitutional ; that due to financial crunch they were not able to make GST payment regularly and without GST payment GSTR3B return could not be filed ; that the respondent could not cancel without show cause notice and without hearing ; that from now onwards they will submit GST returns along with GST and interest and late fees ; that they had obtained GST registration from 14-11-2017 and regularly filed GST returns and paid GST ; that they had not breached or violated any condition under the Act or Rules and Regulations made therein ; that it is a settled Law that any Order which affects the right of the assessee cannot be passed without granting opportunity of personal hearing ; since the impugned order was passed without following principles of natural justice it cannot be sustained ; that the impugned order is non speaking order and therefore it cannot be sustained in the eyes of Law.

3. The appellant has also filed application of condonation of delay wherein they admitted that there is delay of almost 22 months in filing of appeal as their accountant has failed to prepare and submit GST return due to bad health and therefore the appellant has not submitted return in due time ; that they were not aware of cancellation of their registration ; to allow their appeal due to Covid reason ; that due to unforeseen circumstance beyond control of the applicant there was delay in filing of appeal ; that they tender unconditional apology for not filing appeal in time. Therefore the appellant requested this authority to exercise discretionary power to condone the delay in the interest of justice and that there was no deliberate intention on their part not to file the appeal within time limit but because of beyond their control as stated above and requested to consider this application for condonation of delay and to heard the appeal on merit.

4. Personal hearing was granted on dated 23-11-2021, 22-12-2021 and 15-3-2022. No one appeared on behalf of the appellant on the scheduled dates. As per Section 107 of CGST Act, 2017 this authority is empowered to grant three opportunity of personal hearing which has been granted to the appellant. Since neither the appellant nor their authorized representative has appeared for personal hearing on any of the three dates, I proceed to decide the case ex parte on merit.

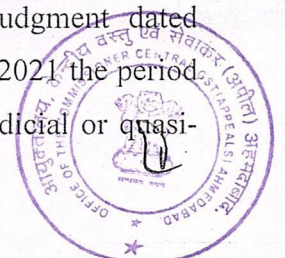
5. I have carefully gone through the facts of the case, grounds of appeal, submission made by the appellant and documents available on record. At the outset I find that the impugned order was communicated to the appellant on dated 12-10-2019 and the present appeal was filed on dated 27-8-2021 ie after a period of 22 months. This fact is also admitted by the appellant. 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.”

6. 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 11-1-2020, as stipulated under Section 107(1) of the Act. However, the Appellant has filed the present appeal on 27-08.2021, i.e. after a period of more than 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, the appellant has filed condonation of delay in filing of appeal. However, considering delay of 22 months in filing the present appeal, I find that the present appeal was filed much beyond the condonable period of one month. 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. Therefore, I do not consider their request for condonation of delay and reject the application made for the same. Consequently I find that the present appeal was filed beyond the statutory time period of four months.

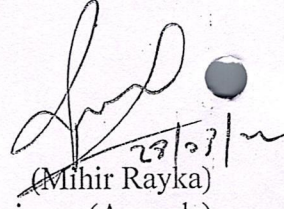
7. Further, I also find that in terms of the Hon'ble Supreme Court judgment dated 23.03.2020 and 27-4-2021 read with Circular No. 157/13/2021-GST dated 20.07.2021 the period of limitation prescribed under any General or Special Laws in respect of all judicial or quasi-



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 11-2-2020 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. In view of above, I hold that the present appeal filed by the appellant merit dismissal on the ground of failure to file the appeal within the time limit prescribed under Section 107 of the CGST Act, 2017. Accordingly I dismiss the present appeal.

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


8. 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

To,

Shri Rahul Jaipalsingh Bhadoria
12/2, No. 836, Chitrakut Society Part 2,
PD Pandya Collage Road,
Ghodasar,
Ahmedabad 380 050

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 I, Ahmedabad South
- 5) The Superintendent, CGST, Range IV, Division I, Ahmedabad South
- 6) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 7) Guard File
- 8) PA file

