



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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टेलिफैक्स 07926305136



DIN-202203645W000021212F

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/2237/2021 -APPEAL / 7221 - 22

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-152/2021-22**  
दिनांक Date : **28-03-2022** जारी करने की तारीख Date of Issue : **29-03-2022**

श्री मिहिर रायका अपर आयुक्त (अपील) द्वारा पारित

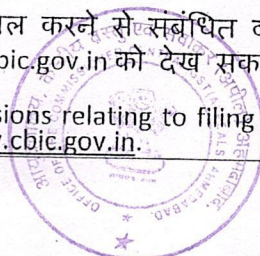
Passed by Shri. Mihir Rayka, Additional Commissioner (Appeals)

ग Arising out of Order-in-Original No. **ZA240121012245 DT. 04.01.2021** issued by Superintendent, CGST, Range II, Division V, Ahmedabad South

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

**Shri Ritesh Kalyanbhai Kachhadiya of M/s. Krishna Plastic, Shed No. 29, Abhinav Arcade, 100 Ft Viratnagar Road, 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) <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 Ritesh Kalyanbhai Kachhadiya of M/s.Krishna Plastic, Shed No.29, Abhinav Arcade, 100 Ft Viratnagar Road, Odhav, Ahmedabad (hereinafter referred to as the appellant) has filed the present appeal on dated 13-10-2021 against Order No.ZA24012102245 dated 4-1-2021 (hereinafter referred to as 'the impugned order) passed by the Superintendent, CGST, Range II, Division V, Ahmedabad South. (hereinafter referred to as the adjudicating authority)

2. Briefly stated the fact of the case is that the appellant's GSTIN Registration No.24EDLPK0011H1Z1 was cancelled by the adjudicating authority with effect from 4-1-2021 under Section 29 (2) of CGST Act, 2017 due to non filing of return from 6 months or more and the appellant was also requested to file GST 10 final return within the prescribed time limit. Being aggrieved the appellant filed the present appeal on the ground that due to Covid 19 and business shutdown they had not filed returns. The appellant has also submitted copy of GSTR3B return and challan for late fee of Rs.9500/-.

3. Personal hearing was held on dated 16-3-2022. Shri Riteshbhai Proprietor appeared 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, 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 4-1-2021 and present appeal was filed on dated 11-10-2021 ie after a period of 9 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.

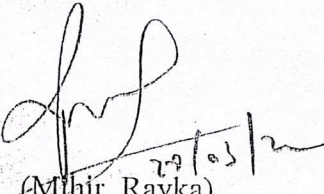
5. In the subject case the registration was cancelled with effect from 4-1-2021 due to non filing of return for six month period. During appeal, the appellant has submitted copy of GSTR3B return filed by them for the six month period till January 2021. I have verified the GST portal and find that the appellant has filed GSTR3B and GSTR1 return for the six month period till January 2021. The appellant has also submitted copy of challans towards payment of late fees.

6. 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 either within the stipulated time limit prescribed under Rule 23 of CGST Rules, 2017. However, with regard to compliance of proviso to Rule 23 of Rules, the appellant has submitted copy of GSTRB return filed for six month period prior to January 2021 and also submitted challan for payment of

late fee. Since the appellant has sought relief in appeal for restoration of their registration after complying with the requirement prescribed under proviso to Rule 23 of CGST Rules, 2017. I allow this appeal for revocation of cancellation of their GST registration. Regarding filing of GSTR10 return 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. Besides GSTR10 is the last return to be filed when the registered person cease to continue their business operations. However from the facts of the case I find that in the subject case the registration was cancelled under Section 29 (2) of CGST Act, 2017 for non submission of returns for continuous period of six months and that the appellant has also sought revocation of cancellation of their registration for continuing their business activity. . Therefore I hold that filing of return GSTR10 is not required in this case. Needless to say, request for restoration of registration, in consequent to this Order, may be considered by the appropriate authority 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।

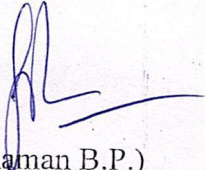
7. The appeal filed by the appellant stands disposed of in above terms.

  
(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested



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

By RPAD

To,  
Shri Ritesh Kalyanbhai Kachhadiya  
of M/s.Krishna Plastic,  
Shed No.29, Abhinav Arcade,  
100 Ft Viratnagar Road,  
Odhav, Ahmedabad

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

