



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, अम्बावाडी अहमदाबाद ३८००१५.

CGST Bhavan, Revenue Marg, Ambawadi, Ahmedabad 380015

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रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या File No : GAPPL/ADC/GSTP/43/2021-APPEAL / म 26 TO म 182

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-JC-46/2021-22**
दिनांक Date : **21-10-2021** जारी करने की तारीख Date of Issue : **22-10-2021**

श्री मिहिर रायका संयुक्त आयुक्त (अपील) द्वारा पारित

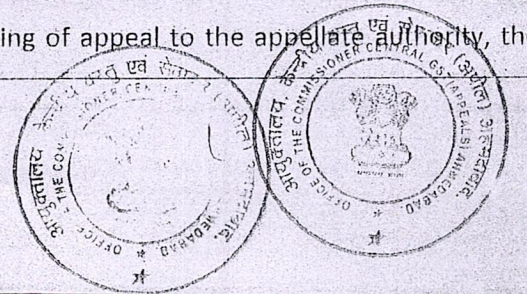
Passed by Shri. Mihir Rayka, Joint Commissioner (Appeals)

ग Arising out of Order-in-Original No. No. **ZA241120057929J** दिनांक: **13-11-2020** issued by Superintendent, Ghatak 9, Ahmedabad South

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

**Shri Ravirajsinh Dharmendrasinh Zala, 7, Mahesh Apartment, New Vidyanagar
Flat, Ambawadi, Ahmedabad 380 015**

(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 .



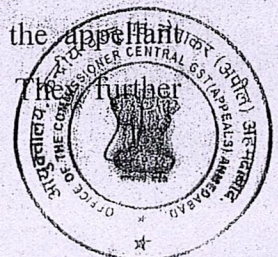
ORDER IN APPEAL

Shri Ravirajsinh Dharmendrasinh Zala, 7, Mahesh Appartment, New Vidyanagar Flat, Ambawadi, Ahmedabad 380 015 (hereinafter referred to as 'the appellant') has filed the present appeal on dated 28-12-2020 against Order No.ZA241120057929J dated 13-11-2020 (hereinafter referred to as 'impugned order') passed by the Superintendent (hereinafter referred to as 'the adjudicating authority').

2. The brief facts of the case are that the appellant has obtained GST Registration No.24AAOPZ9276H1ZS on dated 21-11-2019. On the same day the appellant filed application for cancellation of their registration vide application reference number AA2411190474863. The appellant was issued a notice by the Superintendent, Ghatak 9, Ahmedabad under reference number ZA2411200167163 dated 5-11-2020, on the following reason : *Cancellation details – Others (Please specify) no GSTR3B returns from beginning of taking GST registration ie November 2019. Please file all the required returns.* Thereafter, an Order for rejection of application for registration was issued by the Superintendent, Ghatak 9 (Ahmedabad) under reference number ZA241120057929J dated 13-1-2020, wherein due to non submission of compliance to query, their request for cancellation was rejected.

3. Being aggrieved the appellant filed the present appeal on dated 28-12-2020 on the following grounds :

The appellant has applied for cancellation of number on the date of allotment itself and the date of application of cancellation is deemed to be date of cancellation of the GST number. Hence the date of application shall be now considered (B) The reason raised in the show cause notice have now been answered ie. Requisite returns are file (NIL). Hence the appeal shall be admitted and the application of cancellation shall be provided. Looking to the facts of the case, the appellant requested to consider their request, grant appeal and issue order for cancellation of GSTN. Subsequently the appellant vide their letter dated 27-8-2021 further submitted that due to personal reason they had applied for cancellation of GSTN on 21-11-2019 ie on the date of grant of GST registration itself ; that the show cause notice have been issued for said application of cancellation on 5-11-2020 ie almost 12 months after date of application of cancellation ; that as per Section 29 (1) of CGST Act, 2017 read with Rule 22 (3) of CGST Rules, 2017, the proper office shall within a period of thirty days from the date of application of cancellation pass the order for cancellation under Form GST REG-19. However, in their case the proper officer has issued show cause notice on 5-11-2020 and rejected their application for cancellation on 13-11-2020 without proper reasons. In view of above, the appellant requested to grant his appeal and issue order for cancellation of GSTN. The further



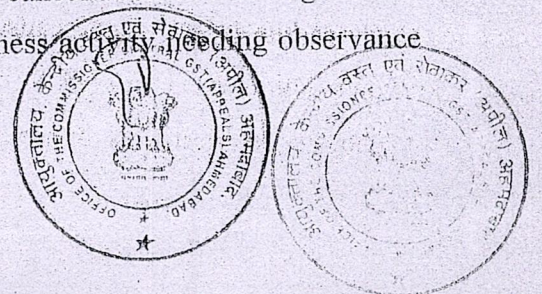
requested to decide the matter as per facts available on records and do not require any personal hearing.

4. I have carefully gone through the facts of the case, grounds of appeal and submissions made by the appellant. I find that the appellant in their letter dated 27-8-2021 has requested to decide the appeal as per facts available on records and waived the opportunity of personal hearing. Therefore, I proceed to decide the case based on evidences available on record.

5. I find that the appellant was issued GST registration and the appellant has applied for cancellation on the same date ie on 21-11-2019. However, the proper officer has issued query memo asking the appellant to furnish return for the month of November 19 vide notice dated 5-11-2020 and due to non-compliance of the same, issued the impugned order dated 13-11-2020 wherein their request for cancellation was rejected by the appropriate authority as they had not filed any returns. . Thus, the application of cancellation of registration was not accepted due to sole reason of non filing of GSTR3B return for the month of November 2019.

6. As per Rule 22 of CGST Rules, 2017, in case of receipt of application for cancellation of registration, the proper office is required to Order in Form GST REG 19 within a period of thirty days from the date of application or date of reply to show cause notice and cancel the registration with effect from a date to be determined by him and notify the taxable person, directing him to pay arrear of any tax, interest or penalty including the amount liable to be paid under sub section (5) of Section 29 of CGST Act, 2017. However, in the subject case, it is seen that the time limit has not been complied.

7. During the present appeal proceedings, the appellant has intimated that they had filed GSTR3B and GSTR 1 (Nil return) for the month of November 2019 and also submitted copy of the same. I further find that in the GST portal the status of registration is shown as Active and that they had filed GSTR 3B and GSTR 1 return for the month of November 2019 on dated 15-12-2020. Thus, the appellant has complied with the grounds mentioned in the impugned order for rejection of their application for cancellation. I further find that the appellant has voluntarily applied for cancellation of their registration which implies that they cease to carry on with any business activity pending observance.

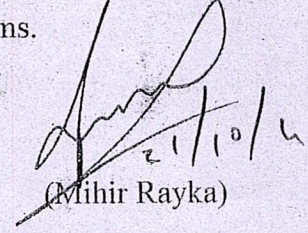


and compliance of GST Law. Therefore, I hold that the request of the appellant for cancellation of GST registration needs to be considered.

8. In view of above, I allow the appeal and set aside the impugned order.

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

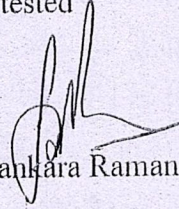
9. The appeal filed by the appellant stands disposed of in above terms.


(Mihir Rayka)

Joint Commissioner (Appeals)

Date :

Attested


(Sankara Raman B.P.)

Superintendent

Central Tax (Appeals),

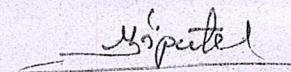
Ahmedabad

By RPAD

To,

Shri Ravirajsinh Dharmendrasinh Zala,
7, Mahesh Appartment,
New Vidyanagar Flat,
Ambawadi,
Ahmedabad 380 015




Received on 25/10/2021
Authoriser Representative
at Prop. of R & V Valsas
(R D. Zala)

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