



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/2351/2021-APPEAL / 14999 TO 14982

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-JC-73/2021-22**

दिनांक Date : **01-12-2021** जारी करने की तारीख Date of Issue : **01-12-2021**

श्री मिहिर रायका संयुक्त आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No **ZA240120074962T** date: **22-1-2020** issued by Superintendent, CGST, AR IV, Division II, Vatva I Ahmedabad South

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

M/s. Balaji Engineering Works, House No 8, Yagnesh Society, Near Vatva Police Station, Vatva Po, Ahmedabad 382440

(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. Balaji Engineering Works, House No.8, Yagnesh Society, Near Vatva Police Station, Vatva PO, Ahmedabd 382 440 (hereinafter referred to as 'the appellant') has filed the present appeal on dated 28-10-2021 against Order No.ZA240120074962T dated 22-1-2020 (hereinafter referred to as 'the impugned Order') passed by the Superintendent, AR IV, Division II, Vatva I Ahmedabad South (hereinafter referred to as the 'adjudicating authority').

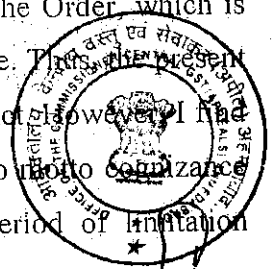
2. The brief facts of the case are that the appellant is registered under GST Registration No.24AJSP5718R2Z6. The appellant was issued show cause notice dated 3-1-2020 for cancellation of their registration for the reason that the appellant has not filed returns for a continuous period of six months. The show cause notice was decided by the adjudicating authority vide impugned Order wherein the adjudicating authority has cancelled their GST registration with effect from 22-1-2020 on the following reasons :

The assessee not filed six monthly returns. Not attended PH on 10-1-2020. Cancelled registration under Section 29 (2) (A) of CGST Act, 2017.

3. Being aggrieved the appellant filed the present appeal on the ground that due to financial disputes and crisis and Covid they were not able to file GST returns. Therefore in order to clear their GST dues and run the business operation smoothly they requested for revocation of cancellation of their registration. The appellant vide their letter dated 18-11-2021 further informed that due to above reason they had also not filed any application for revocation of cancellation within time limit ; that they had filed all their returns till January 2020 and also paid tax and fees ; that in order to clear their GST dues and run the business operation smoothly they requested to decide this appeal and that they do not want any personal hearing and requested to decide the appeal based on the letter.

4. I have carefully gone through the facts of the case, grounds of appeal and submissions made by the appellant. I find that the present appeal was filed seeking relief for filing application for revocation of cancellation of the registration. It is observed from the records that post cancellation of their registration the assessee has not filed any application for revocation of cancellation of their registration within the prescribed time period and hence sought relief in appeal proceedings.

5. Before proceeding on the merits of the case I find that the impugned order was communicated to the appellant on dated 22-1-2020 and the appeal was filed on dated 28-10-2021 i.e. after 21 months' period. As per Section 107 of CGST Act, 2017, the time limit for filing appeal was prescribed as three months from the date of communication of the Order, which is extendable for further period of one-month subject to showing sufficient cause. This time period was extended by the Hon'ble Supreme Court's vide its judgment dated 23-3-2020, taking suo into cognizance of the situation arising due to Covid 19 pandemic, has extended the period of limitation



prescribed under the Law with effect from 15-3-2020 till further Orders. Subsequently vide Order dated 27-4-2021, Hon'ble Supreme Court has restored the Order dated 23-3-2020 thereby directing that the period (s) of limitations as 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 15-3-2020. In pursuance to said decision, CBIC vide Circular No.157/13/2021-GST dated 20-7-2021 has also clarified that *appeals by tax payers/tax authorities against any quasi judicial order, whether any appeal is required to be filed before Joint/Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various Courts against any quasi judicial order or where a proceedings for revision or rectification of any order is required to be undertaken, the time limit for the same would stand extended as per the Hon'ble Supreme Court's Order. In other words, the extension of timelines granted by Hon'ble Supreme Court vide its Order dated 27-4-2021 is applicable in respect of any appeal which is required to be filed before Joint/Additional Commissioner (Appeals), Commissioner (Appeals), Appellate Authority for Advance Ruling, Tribunal and various Courts against any quasi judicial order or where proceedings for revision or rectification of any order is required to be undertaken and is not applicable to any other proceedings under GST Laws.* In view of above decision and clarification I find that since the time limit for filing appeal in this case falls after 15-3-2020 the present appeal is not hit by limitation factor prescribed under Section 107 of CGST Act, 2017.

6. I find that in this case, the registration of the appellant was cancelled due to non filing of six monthly returns under Section 29 (2) of CGST Act, 2017. In such cases provision for revocation of cancellation is provided under Rule 23 of CGST Rules, 2017 as under :

23. Revocation of cancellation of registration.-(1) A registered person, whose registration is cancelled by the proper officer on his own motion, may submit an application for revocation of cancellation of registration, in FORM GST REG-21, to such proper officer, within a period of thirty days from the date of the service of the order of cancellation of registration at the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

Provided that no application for revocation shall be filed, if the registration has been cancelled for the failure of the registered person to furnish returns, unless such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns.

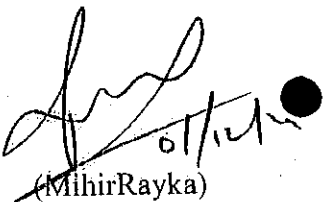
7. In view of above in case of cancellation of registration due to non filing of returns the registered person need to file an application with appropriate authority after filing the return and paying applicable tax dues, interest, penalty and late fee. In the subject case the appellant has not filed any application for revocation of cancellation of their registration either within the stipulated time limit prescribed under Rule 23 of CGST Rules, 2017 or within the extended time period granted vide Circular No. 158/14/2021-GST dated 6th September, 2021. However, in compliance to proviso to Rule 23 of Rules, the appellant submitted copy of GSTP-3B and

GSTR1 Returns filed for the month of January 2020 and also submitted challan for payment of IGST of Rs.1515377/- and late fee for Rs.80000/-. I have also verified GST portal and find that the appellant has filed GSTR3B and GSTR1 return for the six month period till January 2020 on dated 27-10-2021.

8. In view above, I find that 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 find it just and fair to allow this appeal. Needless to say any request for revocation of cancellation of registration may be considered by the appropriate authority subject to payment of all dues and in accordance with provisions of Act, Rules and instructions in force. Accordingly I allow the appeal filed by the appellant.

अपील कर्थाद्वारा 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.

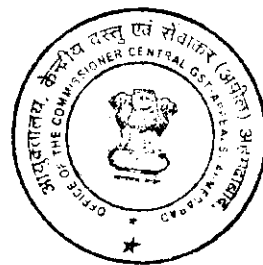

(Mihir Rayka)

Joint Commissioner (Appeals)

Date :

Attested


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



By RPAD

To,

M/S. Balaji Engineering Works,
House No.8, Yagnesh Society,
Near Vatva Police Station, Vatva PO,
Ahmedabad 382 440

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