

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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रजिस्टर्ड डाक ए.डी. द्वारा

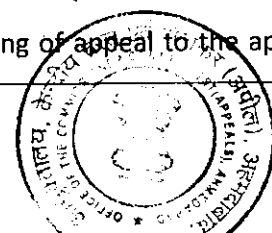
क फाइल संख्या : File No : GAPPL/ADC/GSTP/2233/2021-APPEAL / 5149 To 5153ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-JC-87/2021-22**
दिनांक Date : **16-12-2021** जारी करने की तारीख Date of Issue : **16-12-2021**

श्री मिहिर रायका संयुक्त आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. **ZA240121019952 DT. 05.01.2021**
issued by Superintendent, Range IV, Division II, Ahmedabad Southघ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
Shri Vinodbhai Babubhai Panchan of M/s. Jay Ambe Plastic Industries, FF1, Parth
Appartments, Indra Vihar Society, Shriji Vidhlay Khhancho, Opp Diamond Nikol Road,
Ahmedabad-382350

(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

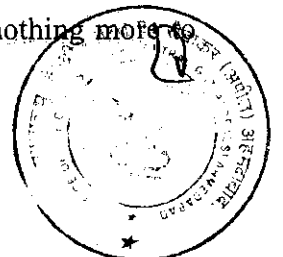
Shri Vinodbhai Babubhai Panchan of M/s.Jay Ambe Plastic Industires, FF 1, Parth Apartments, Indra Vihar Society, Shriji Vidhlay Khhancho, Opp Diamond Nikol Road, Ahmedabad 382 350 (hereinafter referred as 'the appellant') has filed the present appeal on dated 21-10-2021 against Order No.ZA240121019952 dated 5-1-2021 (hereinafter referred to as 'the impugned order') passed by the Superintendent, Range IV, Division II, Ahmedabad South (hereinafter referred to as the adjudicating authority).

2. Briefly stated the fact of the case is that the appellant registered under GSTIN 24BTAPP2675J1ZI, was issued show cause notice number ZA241220099584J dated 25-12-2020 proposing cancellation of their registration on the ground that the they had not filed returns for a continuous period of six months. The adjudicating authority vide impugned order ordered cancellation of their registration with effect from 22-12-2020 on the ground that the appellant has not filed any reply and not attended personal hearing.

3. Being aggrieved the appellant filed the present appeal on the following grounds :

- i. That they were unable to apply for revocation of registration as 90 days were passed from the date of cancellation of registration.
- ii. That even after four years of implementation, GST is still a new Law for tax payers as well as Government. GST Act was believed to be simple and tax payer friendly. However due to fix burden of making payment every month on 20th has triggered the liquidity crunch issue. There have been so many changed in GST rates and procedures. Notification and Circulars are issued by the Department on frequent basis. Therefore it takes time for a small taxpayer to understand the implications of all those changes. Further, as stated above, the appellant was facing severe liquidity crunch due to new business set up by him. The Government has also waived late fee number of times, considering the demand for tax payers. Therefore considering the genuine reasons cited for not filing GST returns in time, the appellant hereby request the learned Appellate Authority to revoke the cancelled GST registration so that he can smoothly run the business. The appellant also submit that henceforth he will be a tax compliant person and file all the returns within the stipulated time. The appellant has already filed all the return upto the date of cancellation and also manually submitted pending GST returns after cancellation date for your consideration. Further the appellant will submit that all the tax due on pending returns will be duly paid along with application late fee and interest. In view of above submissions the appellant requested to revoke their GST registration.

4. Personal hearing was held on 14-12-2021. Shri Utkarsh Desai, Authorized Representative appeared on behalf of the appellant on virtual mode. He stated that they have nothing more to add to their written submission till date.



5. I have carefully gone through the facts of the case, ground of appeal and documents available on record. I find that the present appeal was filed seeking relief for filing application for revocation of cancellation of the registration.

6. Before proceeding on the merits of the case I find that the impugned order was communicated to the appellant on dated 5-1-2021 and the appeal was filed on dated 21-10-2021 ie after 9 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. Thus, the present appeal was filed beyond the time limit prescribed under Section 107 of the Act. However, I find that Hon'ble Supreme Court vide its Order dated 23-9-2021 in Misc Application Number 665 of 2021 in Re : Cognizance for extension of limitation has ordered as under :

I. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15.03.2020 till 02.10.2021 shall stand excluded. Consequently, the balance period of limitation remaining as on 15.03.2021, if any, shall become available with effect from 03.10.2021.

II. In cases where the limitation would have expired during the period between 15.03.2020 till 02.10.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 03.10.2021. In the event the actual balance period of limitation remaining, with effect from 03.10.2021, is greater than 90 days, that longer period shall apply.

III. The period from 15.03.2020 till 02.10.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

7. On the basis of above Order, since the time limit for filing appeal in this case falls during the period between 15-3-2020 to 2-10-2021, the present appeal is not hit by limitation factor prescribed under Section 107 of CGST Act, 2017.

8. In this case, the registration of the appellant was cancelled due to non filing of six monthly returns. 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.

8. 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 returns and paying applicable tax dues, interest, penalty and late fee. In the subject case it transpires that the appellant has not filed any application for revocation of their registration within the prescribed time period but sought relief in appeal. In the current proceedings they submitted that they had filed all the returns upto the date of cancellation. They had also submitted copy of GSTR3B returns for the six period from June 2020 to December 2020 and quarterly GSTR1 returns till December 2020 along challans for payment of tax, interest and penalty. I have verified GST portal and find that the appellant has filed GSTR3B return and GSTR1 return till December 2020.

9. In view above, 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 verification of returns and payment of all dues made by the appellant 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।

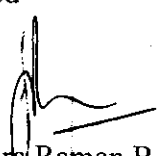
10. The appeal filed by the appellant stands disposed of in above terms.


(Mihir Rayka)

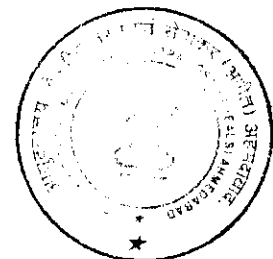
Joint Commissioner (Appeals)

Date :

Attested


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

By RPAD



To,

Shri Vinodbhai Babubhai Panchan of
M/s. Jay Ambe Plastic Industires,
FF1, Parth Appartments, Indra Vihar Society,
Shriji Vidhlay Khhancho,
Opp Diamond Nikol Road, Ahmedabad-382350

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 Deputy/Assistant Commissioner, CGST, Division II, Ahmedabad South
- 5) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- ✓ 6) Guard File
- 7) PA file

