



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

07926305065-

टेलिफैक्स 07926305136



DIN- 20220964SW000042474D

रजिस्टर्ड डाक ए.डी. द्वारा

क

फाइल संख्या : File No : GAPPL/ADC/GSTP/2057/2022 -APPEAL / 3752 - 58

ख

अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-109/2022-23**

दिनांक Date : **08-09-2022** जारी करने की तारीख Date of Issue : **12-09-2022**

श्री मिहिर रायका\_अपर आयुक्त (अपील) द्वारा पारित

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

ग

Arising out of Order-in-Original No. **ZA240522040446V DT. 09.05.2022**

issued by Superintendent, CGST, Ghatak 3, Ahmedabad South

घ

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

**Shri Gaurav Rajnikant Shastri, 601, 24, GJAHM, 100 Ft Road, Ahmedabad-380015**

(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 Gaurav Rajnikant Shasti, 601, 24, GJAHM, 100 Ft Road, Ahmedabad 380 015 (hereinafter referred to as the appellant) has filed the present appeal on dated 9-6-2022 against Order NO.ZA240522040446V dated 9-5-2022 (hereinafter referred to as the impugned order) passed by the Superintendent, CGST, Ghatak 3, Ahmedabad South (hereinafter referred to as the adjudicating authority).

2. Briefly stated the fact of the case is that the appellant filed application for GST registration under ARN AA240422050339H dated 14-4-2022 along with supporting documents. The appellant was issued show cause notice in Form GST REG 03 under reference No.ZA240422117178U dated 25-4-2022 on the following reasons asking the appellant to filed compliance by 4-5-2022.

*Principal place of business – Address – Other (please specify). Please upload legible and colour scanned copy of tax bill, index 2, valid photo ID of the owner of the place of business all in preferably same PDF file.*

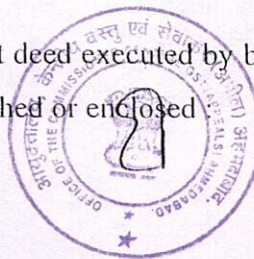
*The appellant filed compliance to show cause notice in Form GST REG 04 on dated 1-5-2022 providing clarification/additional information/documents for registration.*

3. The adjudicating authority vide impugned order ordered rejection of application of registration on the following reasons :

*ARN rejected in view of provisions of Rule 9 (4) of CGST Rules, 2017 as the applicant has neither submitted adequate compliance reply nor complied the queries raised under Rule 9 (2) of CGST Rules, 2017. Further, the property is appears to be co-owned however, neither rent deed executed by both co-owners nor NOC of remaining co-owner Ms Chandraprabha Jain attached or enclosed. Signature in respect of Mr. Gaurav Shahtri is mismatched in Pan-card vis a vis rent deed. Electric Meter reading at point number 29 (iv) is missing in Rent Deed and further One Witness Sign is also missing in Rent Deed. Therefore, your application is rejected in accordance with the provisions of the Act.*

4. Being aggrieved the appellant filed the present appeal on the ground that rejection is based on technical reading of rent agreement. It is notarized legally binding rent agreement. He was doing business in same address since few years. He has crossed 20 lacs receipt in financial year and hence applied for registration. Since registration is not granted, he had to collect GST late and pay late fee. In view of above the appellant requested to grant registration so he can collect GST and deposit it to Government treasury. The appellant filed compliance to each query as under:

i) Property is co-owned however neither rent deed executed by both co-owners nor NOC of remaining co-owner Ms Chandraprabha Jain attached or enclosed



The appellant submitted that one co-owner is party to rent agreement and it is legally binding rent agreement. Further the appellant submitted copy of death certificate issued by Government of Gujarat as per which Ms Chandraprabha has expired on 27-5-2020.

ii) Signature in respect of Shri Gaurav Shashtri is mismatched in Pan card vis a vis rent deed.

He had pan card in his name since last 20 years and have signed in presence of notary and that sign is valid one.

iii) Electric Meter reading at point number 29 (iv) is missing in rent deed.

It is a technical mistake. Though the notarized rent agreement would still be binding legal documents on both parties. Further it is not new rental agreement but a renewal of agreement. So mere non mention of electric meter reading in rent agreement would not make it void.

iv) One witness sign is also missing in rent deed.

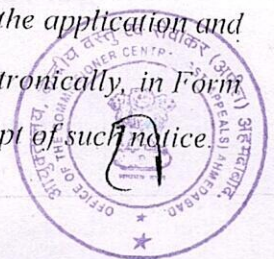
It is legally binding agreement as it is notarized agreement.

5. Personal hearing was held on dated 29-7-2022. Shri Narendrakmar Krishnamohan Khandelval authorized signatory appeared on behalf of appellant on virtual mode. For further clarification he has been given next personal hearing on 5-8-2022. Accordingly, personal hearing was again held on 5-8-2022 Shri Narendrakmar Krishnamohan Khandelval authorized signatory appeared on behalf of appellant on virtual mode. He stated that they have nothing more to add to their written submission till date. Meantime the appellant vide letter dated 3-8-2022 submitted various documents related to appeal

6. I have carefully gone through the facts of the case, grounds of appeal, submission made by the appellant and documents available on record. Since the issue relate to rejection of application of GST registration, at the outset I refer to relevant statutory provisions governing rejection of application of GST registration as under:

Rule 9 of CGST Rules, 2017 :

(2) Where the application submitted under rule 8 is found to be deficient, either in terms of any information or any document required to be furnished under the said rule, or where the proper officer requires any clarification with regard to any information provided in the application or documents furnished therewith, he may issue a notice to the applicant electronically in Form GST REG 03 within a period of seven working days from the date of submission of the application and the applicant shall furnish such clarification, information or documents electronically, in Form GST REG-04, within a period of seven working days from the date of the receipt of such notice.



**Provided that where -**

(a) a person, other than a person notified under sub-section (6D) of section 25, fails to undergo authentication of Aadhaar number as specified in sub-rule (4A) of rule 8 or does not opt for authentication of Aadhaar number; or

(b) the proper officer, with the approval of an officer authorised by the Commissioner not below the rank of Assistant Commissioner, deems it fit to carry out physical verification of places of business,

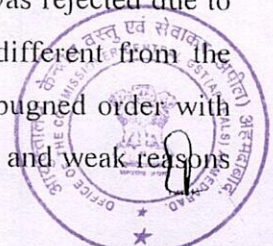
the notice in Form GST REG-03 may be issued not later than thirty days from the date of submission of the application.

**Explanation.** - For the purposes of this sub-rule, the expression "clarification" includes modification or correction of particulars declared in the application for registration, other than Permanent Account Number, State, mobile number and e-mail address declared in Part A of Form GST REG-01.

(3) Where the proper officer is satisfied with the clarification, information or documents furnished by the applicant, he may approve the grant of registration to the applicant within a period of seven working days from the date of the receipt of such clarification or information or documents.

(4) Where no reply is furnished by the applicant in response to the notice issued under sub-rule (2) or where the proper officer is not satisfied with the clarification, information or documents furnished, he may, for reasons to be recorded in writing, reject such application and inform the applicant electronically in Form GST REG-05.

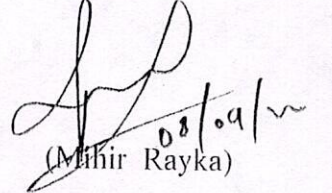
7. In the impugned order application was rejected due to unsatisfactory reply and non-compliance to queries raised under Rule 9 (2) ie in respect of notice issued in Form REG 03. I find from the documents made available to me that the appellant complied with queries raised in the show cause notice on dated 1-5-2022. GST portal also show that clarification was filed in Form GST REG 04 on 1-5-2022. Therefore, findings made in this regard I find is factually wrong and hence this reason for rejection of registration I find is not a justifiable and sustainable reason. Regarding the reason of discrepancies in the rent agreement/deed given in impugned order, I find that these reasons were not mentioned in the show cause notice and hence this reason was taken without putting the appellant to notice and which is beyond the scope of show cause notice. I further find that Rule 9 of CGST Rules, 2017 envisage that the proper officer, if not satisfied with the clarification, information or documents furnished, can reject the application for registration for the reasons to be recorded in writing. Proviso 2 to Rule 9 further empowers the proper officer to carry out physical verification of premises. In the subject case, even though the appellant has submitted clarification/additional information/documents in Form GST REG 04, no reasons was recorded in writing with regard to the same. On the contrary the application was rejected due to unsatisfactory/non submission of compliance to notice and on the reasons different from the reasons raised in the notice. I also find that even the reasons given in the impugned order with regard to discrepancies in rent deed, pan card, electric meter etc are also flimsy and weak reasons.



for rejection of application inasmuch as it is not disputed that the PAN card submitted with application was not issued to the appellant or that it is established on physical verification of premises that the appellant were not doing business activity in the premises declared by them. However, during appeal the appellant has filed reply to all queries raised in the notice wherein they stressed upon the fact that all such documents are duly notarized and hence legally valid. In view of above, I hold that the impugned order passed by the adjudicating authority rejecting application of registration on the reasons mentioned therein is not legal and proper and deserve to be set aside. 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 |

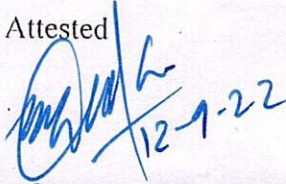
8.. The appeal filed by the appellant stands disposed of in above terms.

  
(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested

  
12-9-22

(DILIP JADHAV)

Superintendent  
Central Tax (Appeals),  
Ahmedabad  
By RPAD

To,

Shri Gaurav Rajnikant Shasti,  
601, 24, GJAHM,  
100 Ft Road,  
Ahmedabad 380 015

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) Superintendent, CGST, Ghatak 3, Ahmedabad South
- 6) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 7) Guard File
- 8) PA file



