



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/655/2022 -APPEAL /1271 70 1276

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-12/2022-23**  
दिनांक Date : **09-05-2022** जारी करने की तारीख Date of Issue : **09-05-2022**

श्री मिहिर रायका\_अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. **ZA2401200242966 DT. 07.01.2020** issued by  
Superintendent Range-I, Division I (Rakhial) Ahmedabad South

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent  
**M/s. RAP Developers, A 403, Hari Vilas Apartment,  
Near Sarthi Hotel, Vastrapur, Ahmedabad-380015**

|       |   |
|-------|---|
| (A)   | इस आदेश(अपील) से व्यथित कोई व्यक्ति निम्नलिखित तरीके में उपयुक्त प्राधिकारी /<br>प्राधिकरण के समक्ष अपील दायर कर सकता है।<br>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 -<br>(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<br>(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 दायर 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।<br>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

M/s.RAP Developers, A 403, Hari Vilas Apartment, Near Sarthi Hotel, Vastrapur, Ahmedabad 380 015 (hereinafter referred to as the appellant) has filed the present appeal on dated 11-2-2022 against Order No.ZA2401200242966 dated 7-1-2020 (hereinafter referred to as the impugned order) passed by the Superintendent Range I, Division I, Ahmedabad South (hereinafter referred to as the adjudicating authority).

2. Briefly stated the fact of the case is that the appellant was registered under GSTIN 24AANFR2204A2ZT. The appellant was issued show cause notice No.ZA241219088123L dated 24-12-2019 for cancellation of their registration on the ground that 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 7-1-2020 for not appearing in personal hearing.

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

- i. The adjudicating authority has erred in Law and is not justified for cancellation of GST registration so the same may be restored;
- ii. That they are ready to pay all taxes and interest and also ready to file all required returns as per GST Act, 2017;
- iii. The accountant of the appellant had left the work due to Corona and the appellant was not in knowledge that the GST required returns were not filed and taxes were not paid;
- iv. In view of above facts and circumstances the appellant required to consider the above facts and restore their GST registration from the date of cancellation.
- v. The appellant vide their letter dated 23-3-2022 further submitted that the impugned order was passed without giving any opportunity to be heard;
- vi. In view of judgement of Hon'ble Supreme Court in Suo Moto Writ Petition (Civil) No.3 of 2020 extending the time limitation for filing of appeal due to Covid situation the appellant requested to allow delay condone for filing of their appeal;
- vii. Their accountant has left work due to Corona pandemic and they were not in knowledge that they had not filed their GST returns and not paid required taxes under GST Act. They are ready to file their GSTR1 and GSTR3B from January 2020 to up to the date and as well as ready to pay all taxes, interest and penalty payable under GST Act. This being their first default and they were not aware by the situation. So, considering the above fact they requested to continue and restore their GST registration number.



4. Personal hearing was held on dated 12-4-2022. Shri Divyakumar M Sheh, 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, 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 7-1-2020 and present appeal was filed on dated 23-2-2022 ie after a period of two years 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, Order dated 23-9-2021 and Order dated 10-1-2022, extending the time limit for filing of appeal and excluding the period from 15-3-2020 till 28.02.2022 for the purposes of limitation as may be prescribed under any general or special Laws in respect of all judicial or quasijudicial proceedings., I hold that the present appeal is not hit by time limitation factor.

6. The appellant in their appeal made submission that they were not given any opportunity of being heard before ordering cancellation of registration. I find strong force in this submission. The impugned order ordering cancellation of registration itself was passed due to non-appearance of appellant in personal hearing which show that no personal hearing was held before ordering cancellation of registration. I further observe that in the show cause notice also it was mentioned that failure to furnish reply to show cause notice or failure to appear for personal hearing on appointed date and time will lead to exparte decision on the basis of documents available on record. However, the scheduled date or time for personal hearing was not mentioned in the show cause notice. Therefore, it is crystal clear that personal hearing was not even granted before ordering cancellation. The opportunity of being heard is one of the principals of natural justice and it should invariably be provided in all judicial/quasi-judicial proceedings before passing an adverse order. In this case I find that the opportunity of personal hearing was not given before issuing cancellation order and therefore I hold that the principle of natural justice is not followed while passing the impugned order.

7. In the subject case the registration was cancelled with effect from 7-1-2020 due to non filing of return for six month period. During appeal, the appellant has submitted copy of GSTR3B return filed by them for period till January 2020. I have verified the GST portal and find that the appellant has filed GSTR3B and GSTR1 return for the six-month period till January 2020. The appellant has also submitted copy of challans towards payment of late fees.

8. 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 within the stipulated time limit prescribed under Rule 23 of CGST Rules, 2017. However, with regard to compliance

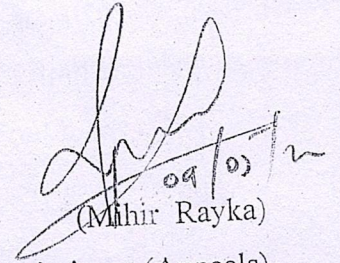




of proviso to Rule 23 of Rules, the appellant has submitted copy of GSTRB return filed for six month period prior to January 2020 and also submitted challan for payment of dues. Since the appellant has sought relief in appeal for restoration of their registration after complying with the requirement prescribed under proviso to Rule 23 of CGST Rules, 2017, I allow this appeal for revocation of cancellation of their GST registration. Needless to say, request for restoration of registration, in consequent to this Order, may be considered by the appropriate authority subject to provisions of CGST Act and Rules 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।

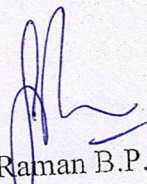
9. The appeal filed by the appellant stands disposed of in above terms.

  
(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested

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

By RPAD  
To,  
M/s.RAP Developers,  
A 403, Hari Vilas Apartment,  
Near Sarthi Hotel,  
Vastrapur, 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) The Superintendent, CGST, Range I, Division I, Ahmedabad South
- 6) The Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 7) Guard File
- 8) PA file

