



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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टेलिफैक्स 07926305136



DIN- 20221264SW0000999F30

रजिस्टर्ड डाक ए.डी. द्वारा

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फाइल संख्या : File No : GAPPL/ADC/GSTP/1545/2022 -APPEAL

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अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-171/2022-23**

दिनांक Date : **01-12-2022** जारी करने की तारीख Date of Issue : **02-12-2022**

श्री मिहिर रायका_अपर आयुक्त (अपील) द्वारा पारित

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

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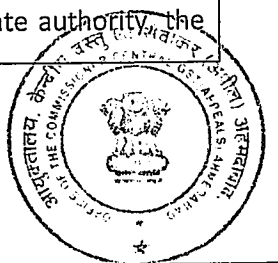
Arising out of Order-in-Original No. **ZA240122006808X DT. 03.01.2022** issued by Superintendent, CGST & CX, Range-III, Division-V, Ahmedabad South

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

M/s. Dipvijay Industries Pvt. Ltd., Shop No. 4, Gujar Wadi Park, Nr. Hari Om park Society, Odhav, Ahmedabad-382415

(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. Dipvijay Industries Pvt. Ltd., Shop No. 4, Gujar Wadi Park, Nr. Hari Om Park Society, Odhav, Ahmedabad-382415 (hereinafter referred to as the *appellant*) has filed the present appeal on 19.04.2022 against the Order No. ZA240122006808X dated 03.01.2022 (hereinafter referred to as the *impugned order*) passed by the Superintendent, Range-III, Division-V, Ahmedabad Sout (hereinafter referred to as the *adjudicating authority*).

2. The appellant was registered under GSTIN 24AAFCD2636M1ZL. The appellant was issued show cause notice dated 18.12.2021 for cancellation of registration due to non filing of returns for a continuous period of six months. Thereafter, the adjudicating authority has cancelled the registration with effect from 03.01.2022 vide impugned order on the ground of "*Failure to file six Monthly Returns*".

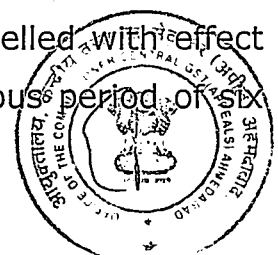
3. Being aggrieved, the appellant has filed the present appeal on 19.04.2022. The appellant has also submitted an affidavit wherein he has stated that -

- *they have filed the pending returns till the date of cancellation of registration with interest, late fee, GST liability.*
- *Once their registration get activated they will file all pending returns with GST liability, interest, penalty, late fee if any.*
- *They will file all GST Returns regularly in future.*

4. Personal hearing in the matter was held on dated 07.09.2022. Shri Ritesh M. Thaker, authorized representative appeared on behalf of the appellant on virtual mode. He stated that they have nothing more to add to their written submission.

5. I have carefully gone through the facts of the case, grounds of appeal, submission 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 03.01.2022 and present appeal was filed on dated 19.04.2022 i.e. beyond the three months time limit prescribed under Section 107 of the Act. However as per Hon'ble Supreme Court's Order dated 10.01.2022 in suo motu writ petition (C) NO.3 of 2020 in MA No.665/2021, excluding the period from 15-3-2020 till 28-2-2022 in computing time limitation and providing 90 days extension from 1-3-2022 in filing appeals, I hold that the present appeal is not hit by time limitation factor.

6. In the present matter the registration was cancelled with effect from 03.01.2022 due to non filing of returns for a continuous period of six

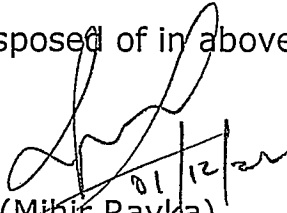


months. As per Rule 23 of CGST Rules, 2017, in case of cancellation of registration due to non filing of returns under Section 29 (2) of CGST Act, 2017 the registered person needs to file an application for revocation of cancellation of registration with appropriate authority after filing the return and paying applicable tax dues, interest, penalty and late fee. In the subject case, appellant has stated that they have not filed any application for revocation of cancellation of their registration within the stipulated time limit prescribed under Rule 23 of CGST Rules, 2017. I have verified from GST portal that the appellant has filed GSTR3B and GSTR1 return for the period till January 2022 i.e. upto the date of cancellation of registration.

7. In view of above, I am of the opinion that the registration of "Appellant" may be considered for revocation by the proper officer subject to due compliance of the conditions by the "Appellant" under Rule 23(1) of CGST Rules, 2017. Accordingly, I allow this appeal of the "Appellant" and order to the proper officer to consider the revocation application of the "Appellant" after due verification of payment particulars of tax, penalty, late fee, interest and status of the returns.

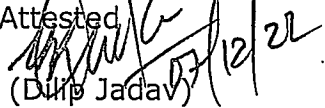
अपील कर्थाद्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

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


(Mihir Rayka)

Additional Commissioner (Appeals)

Date : 01.12.2022

Attested

(Dilip Jadav)
Superintendent (Appeals)
Central Tax, Ahmedabad

By RPAD

To,
Dipvijay Industries Pvt. Ltd.,
Shop No. 4, Gujar Wadi Park,
Nr. Hari Om Park Society,
Odhav, Ahmedabad-382415

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

