



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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DIN- 20230264SW0000818193

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/3147/2022 -APPEAL / १६७२३-२९

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-240/2022-23**

दिनांक Date : **21-02-2023** जारी करने की तारीख Date of Issue : **21-02-2023**

श्री मिहिर रायका\_अपर आयुक्त (अपील) द्वारा पारित

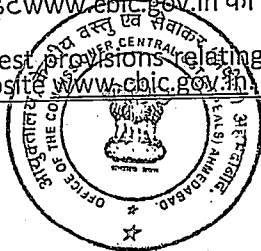
Passed by Shri. Mihir Rayka, Additional Commissioner (Appeals)

ग Arising out of Order-in-Original No. **ZA241122050799J DT. 10.11.2022** issued by The Assistant Commissioner, CGST, Ahmedabad South

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

**Jethava Jigneshbhai Navinbhai of M/s. J J Enterprise, Godown No. 146, Mahalaxi Estate, Sarkhej, Opp. Bhagyoday Hotel, Sanad-Sarkhej Road, Ahmedabad-382210**

(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****Brief Facts of the Case :-**

This appeal has been filed under Section 107 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as "*the Act*") by **M/s. J J Enterprise (Legal Name – Jethava Jigneshbhai Navinbhai)**, Godown No. 146, Mahalaxmi Estate, Sarkhej, Opp. Bhagyoday Hotel, Sanad-Sarkhej Road, Ahmedabad – 382 210 (hereinafter referred to as "*Appellant*") against the Order No. ZA241122050799J dated 10.11.2022 (hereinafter referred to as "*impugned order*") passed by the Assistant Commissioner, CGST, Ahmedabad South (hereinafter referred to as "*the adjudicating authority/ Proper Officer*").

2. Facts of the case, in brief, are that the *appellant* is registered under the Central Goods and Services Tax Act, 2017 vide GST Registration GSTIN No. 24BEOPJ3536H1ZG. The appellant in the present appeal has submitted that –

- *The appellant is the proprietor of the firm M/s. J J Enterprise. He belongs to Palitana and residing on rent in the Ahmedabad.*
- *He being commerce background having little knowledge of GST. Accordingly, he was filing GST return by himself. However, due to some social and health related issues he was not in the city Ahmedabad and accordingly failed to file GST returns in time. Therefore, his GSTIN was cancelled Suomoto basis for reasons of non filing of GST returns for the period of six months.*
- *When it has come to his knowledge he has applied for revocation of cancellation of GSTIN.*
- *However, his application is rejected by the adjudicating authority vide impugned order dated 10.11.2022 on the grounds that "Since, delay in filing of application is more than 88 days is noticed and no order of competent authority is produced by you. Revocation of cancellation of Registration is hereby rejected"*

3. Being aggrieved with the '*impugned order*', the '*appellant*' has preferred the present appeal on 18.11.2022. The appellant in the appeal memo has stated that now they appointed an Advocate who shall maintain the GSTIN ; that in future such type of mistake cannot take place ; that they apologies for the same and requested to revoke their cancelled GST registration ; that they are filing the GST Returns on quarterly basis and the registration is cancelled with effect from 11.08.2022 so, they have appealed the



pending GST Returns till June 2022. Further, the appellant has submitted that after restoration of their GST number they will file all pending GST Returns.

4. Personal Hearing in the matter was held on 22.12.2022 wherein Mr. Harkik Solanki appeared on behalf of the 'Appellant' as authorized representatives. During P.H. they have informed that they have nothing more to add to their written submissions till date.

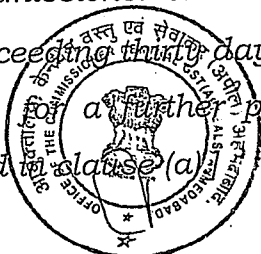
**Discussion and Findings :-**

5. I have carefully gone through the facts of the case, written submissions made by the "Appellant". I find that the registration of the appellant is cancelled with effect from 11.08.2022 as the "Appellant" failed to file the GST Returns. Against the said *suomoto* order of cancellation of the GST Registration, the appellant has filed an application for revocation of their cancelled registration. However, the said application was rejected by the *adjudicating authority* vide *impugned order* dated 10.11.2022 on the grounds that the said application is filed by delay of more than 88 days. I find that the present appeal is filed on 18.11.2022 against the said order dated 10.11.2022. Accordingly, present appeal is filed within the time limit as prescribed in Section 107 of the CGST Act, 2017.

6. Further, I find that the provisions of revocation of cancellation of registration when the same is cancelled by the proper officer on suo moto basis are contained in Section 30 of the CGST Act, 2017 and Rule 23 of the CGST Rules, 2017. Therefore, I find it pertinent to refer Section 30 and Rule 23 as under: -

**SECTION 30. Revocation of cancellation of registration.** — (1) Subject to such conditions as may be prescribed, any registered person, whose registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order :  
[Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended, -

- (a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding thirty days;  
(b) by the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a)



(2) The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application :

**Provided** that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.

(3) The revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

**RULE 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 :

[**Provided** further that all returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of thirty days from the date of order of revocation of cancellation of registration :

**Provided** also that where the registration has been cancelled with retrospective effect, the registered person shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration within a period of thirty days from the date of order of revocation of cancellation of registration.]

(2) (a) Where the proper officer is satisfied, for reasons to be recorded in writing, that there are sufficient grounds for revocation of cancellation of registration, he shall revoke the cancellation of registration by an order in **FORM GST REG-22\*** within a period of thirty days from the date of the receipt of the application and communicate the same to the applicant.

(b) The proper officer may, for reasons to be recorded in writing, under circumstances other than those specified in clause (a), by an order in **FORM GST REG-05\***, reject the application for revocation of cancellation of registration and communicate the same to the applicant.



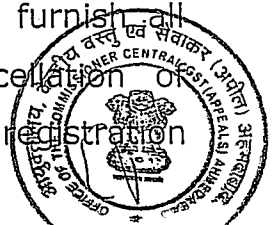
(3) The proper officer shall, before passing the order referred to in clause (b) of sub-rule (2), issue a notice in **FORM GST REG-23\*** requiring the applicant to show cause as to why the application submitted for revocation under sub-rule (1) should not be rejected and the applicant shall furnish the reply within a period of seven working days from the date of the service of the notice in **FORM GST REG-24\***.

(4) Upon receipt of the information or clarification in **FORM GST REG-24\***, the proper officer shall proceed to dispose of the application in the manner specified in sub-rule (2) within a period of thirty days from the date of the receipt of such information or clarification from the applicant.

7. Further, I find that the Central Board of Indirect Taxes & Customs, New Delhi has clarified the issue vide circular No. 99/18/2019-GST dated 23.04.2019. Para 3 of said circular read as under:

3. First proviso to sub-rule (1) of rule 23 of the said Rules provides that if the registration has been cancelled on account of failure of the registered person to furnish returns, no application for revocation of cancellation of registration shall be filed, unless such returns are furnished and any amount in terms of such returns is paid. Thus, where the registration has been cancelled with effect from the date of order of cancellation of registration, all returns due till the date of such cancellation are required to be furnished before the application for revocation can be filed. Further, in such cases, in terms of the second proviso to sub-rule (1) of rule 23 of the said Rules, all returns required to be furnished in respect of the period from the date of order of cancellation till the date of order of revocation of cancellation of registration have to be furnished within a period of thirty days from the date of the order of revocation.

8. On going through the records/submissions, I find that the "Appellant" is filing the GST Returns on quarterly basis and accordingly, the appellant has filed the GSTR 1 & GSTR 3B up to the quarter ending June'2022. Since, the registration is cancelled with effect from 11.08.2022, therefore, it is obvious that system will not allow them to file the GST Returns up to quarter ending September'2022. Therefore, in the present appeal proceedings I find that the GST Returns are considered to be filed up to the date of cancellation of registration. Further, the appellant has stated in the present appeal that after restoration of their GST Registration, all pending GST Returns will be filed and such type of mistake will not be taken place in future. Accordingly, I find that the "Appellant" has complied with the above said provisions in the instant case. Needless to say that the "Appellant" shall furnish all returns relating to period from the effective date of cancellation of registration till the date of order of revocation of cancellation of registration

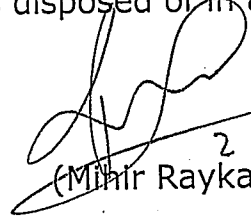


within a period of thirty days from the date of order of revocation of cancellation of registration.

9. In view of above discussions, 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 the 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 returns.

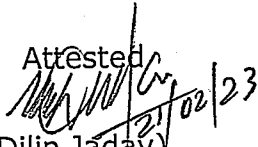
अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

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

  
(Mihir Rayka)

Additional Commissioner (Appeals)

Date: 21.02.2023

Attested  
  
(Dilip Jadaav)  
21/02/23  
Superintendent (Appeals)  
Central Tax, Ahmedabad



By R.P.A.D.

To,

M/s. J J Enterprise

(Legal Name - Jethava Jigneshbhai Navinbhai),

Godown No. 146, Mahalaxmi Estate, Sarkhej,

Opp. Bhagyoday Hotel, Sanad-Sarkhej Road,

Ahmedabad - 382 210

Copy to:

1. The Principal Chief Commissioner of Central Tax, Ahmedabad Zone.
2. The Commissioner, CGST & C. Ex., Appeals, Ahmedabad.
3. The Commissioner, CGST & C. Ex., Ahmedabad-South.
4. The Dy./Asstt. Commr., CGST, Division-VIII Vejalpur, Ahmedabad South.
5. The Superintendent, Range - V, Div. VIII Vejalpur, Ahmedabad South.
6. The Superintendent (Systems), CGST Appeals, Ahmedabad.
7. Guard File.
8. P.A. File

