



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  
 07926305065- टेलीफैक्स 07926305136



DIN- 20220564SW0000555A6B

रजिस्टर्ड डाक ए.डी. द्वारा

- क फाइल संख्या : File No : GAPPL/ADC/GSTP/571/2021 -APPEAL / 1512 701513
- ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-25/2022-23**  
 दिनांक Date : **23-05-2022** जारी करने की तारीख Date of Issue : **24-05-2022**
- श्री मिहिर रायका\_अपर आयुक्त (अपील) द्वारा पारित
- Passed by Shri. Mihir Rayka, Additional Commissioner (Appeals)
- ग Arising out of Order-in-Original No. **ZA241221045869H DT. 13.12.2021** issued by  
 Superintendent, CGST, Ghatak-23, Ahmedabad South
- घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent

**Shri Umeshkumar Gulabbhai Regar of M/s. Radhakrishna Enterprise, 24,  
 OM Industrial Park 1, Behind Tirthbhumi Industrial Park, Bakrol, Ahmedabad-382430**

(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**

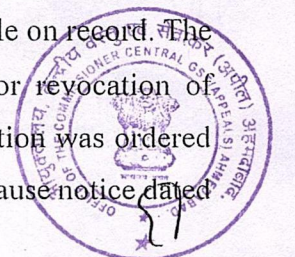
Shri Umeshkumar Gulabbhai Regar of M/s.Radhakrishna Enterprise, 24, OM Industrial Park 1, Behind Tirthbhumi Industrial Park, Bakrol, Ahmedabad 382 430 (hereinafter referred to as the appellant) has filed the present appeal on dated 4-2-2022 against Order No.ZA241221045869H dated 13-12-2021 (hereinafter referred to as the impugned order) passed by the Assistant Commissioner, Ghatak 23, Ahmedabad.

2. Briefly stated the fact of the case is that the appellant was registered under GSTIN24ANWPR8660C1ZH. The appellant was issued show cause notice reference number ZA241121052250F dated 16-11-2021 for cancellation of registration on the reason that *Letter of Assistant Commissioner Unit 23, Gujarat State, Ahmedabad outward number 3470 dated 2-11-2021 for cancellation of registration (Office of the Commissioner of State Unit 23, 6<sup>th</sup> Floor, Bhachat Bhawan, Ahmedabad.* The Superintendent, Ghatak 23, Range I, Ahmedabad vide Order reference Number ZA241121186496K dated 30-11-2021 ordered cancellation of registration with effect from 10-10-2020 on the grounds mentioned in the show cause notice. The appellant vide application dated 1-12-2021 filed an application for revocation of cancellation of registration against which the appellant was issued show cause notice reference number ZA241221009279W dated 2-12-2021 on the reason *'Others (Please specify) – please specify reason revocation of cancellation.* The adjudicating authority vide impugned order dated 13-12-2021 rejected the application for revocation of cancellation on the ground that the appellant has not replied to show cause notice issued vide reference number ZA241221009279W dated 2-12-2021 within the time specified therein and hence the application was rejected in accordance with provisions of the Act.

3. Being aggrieved the appellant filed the present appeal on the ground that their GST registration number 24ANWPR8660C1ZH was cancelled vide order dated 30-11-2021 as per letter dated 2-11-2021 of state GST authorities. Copy of letter not given to them or reason for cancellation was not given. They had filed revocation application on 1-12-2021 as they were not given reasons for cancellation. But received show cause notice dated 2-12-2021 to give reason for revocation of cancellation. They do not know the reason for cancellation and hence not filed reply to show cause notice giving reason for revocation. They regularly filed returns and paid taxes. They request to allow the appeal and restore our GST registration.

4. Personal hearing was held on dated 23-3-2022, Shri Niteshkumar S Jain, authorized representative appeared on behalf of the appellant on virtual mode. The registration was cancelled on the basis of the letter by SGST on fake invoice issue. They have nothing more to add to their written submission till date.

5. I have carefully gone through the facts of the case and documents available on record. The subject appeal was filed against Order passed for rejection of application for revocation of cancellation of GST registration of the appellant. I further find that the cancellation was ordered vide Order dated 30-11-2021 with effect from 10-10-2020 in pursuance to show cause notice dated





16-11-2021 issued to the appellant. It is observed that in both the show cause notice and order of cancellation, no specific reason was given for cancellation but reference to letter dated 2-11-2021 issued by the State GST authorities was only mentioned. Neither the content of the letter nor allegation of any omission or offence on the part of the appellant for cancellation was mentioned either in the show cause notice or in the Order dated 30-11-2021. I further find that the appellant in their application filed for revocation of cancellation of registration under ARN AA2412210013452 dated 1-12-2021 has also given reason that as per SCN the reason for cancellation is not sure and not understandable. In spite of the same the adjudicating authority has issued show cause notice dated 2-12-2021 asking the appellant to specify the reason for revocation of cancellation and rejected their application dated 1-12-2021 due to non-filing of reply to the show cause notice. I find the action on the part of the adjudicating authority is totally unjustifiable and unreasonable inasmuch as it was in the show cause notice and order issued of cancellation of registration the reason for cancellation was not clearly specified so as to provide an opportunity to defend their stand. I fail to understand as to how it can be expected from a person to specify the reason for revocation of cancellation of registration when he was not been intimated or put to notice the reason for cancellation and registration. I further find that Section 29 of CGST Act, 2017 specifies various circumstances under which the proper officer is empowered to cancel the GST registration. However, in the subject case none of the circumstances was quoted as a reason for cancelling the registration. During appeal the appellant submitted copy of GSTR3B returns filed by them till October 2021, which shows that they are engaged in business activity and paying tax. Therefore, I find that cancellation of registration and rejection of application of revocation of cancellation ordered simply giving reference to letter of SGST authorities without giving its content ; without specifying any reason and without putting the appellant to notice to the charges/allegation against them is totally unfair and unjustifiable and against the statutory provisions.

6. I also rely upon following judgements passed by Hon'ble High Court involving similar issues.

- i) Judgment dated 6-1-2022 of Hon'ble High Court of Gujarat in the case of M/s. Vageesh Umesh Jaiswal Vs State of Gujarat.

*In the result, this writ petition succeeds and is hereby allowed. The impugned order, cancelling the registration is hereby quashed and set aside. As we have quashed and set aside the order, cancelling the registration on the ground of vague show cause notice bereft of any material particulars, we leave it open to the authority to issue a fresh show cause notice, if it intend to, but such fresh show cause notice should contain all the necessary details and information about the alleged bogus billing to enable the assessee to file an effective reply to the same.*

- ii) Judgment dated 5-3-2022 of Hon'ble High Court Allahabad in the case of M/s. Apparent Marketing Pvt.Ltd Vs State of UP.





22. For the reasons noted above, the orders dated 12.02.2021, 21.08.2020 and 13.08.2020 cannot be sustained. They are set aside. Accordingly, the present writ petition succeeds and is allowed. It is left open to the respondent authority to issue a fresh notice on any specified ground mentioned under Section 29(2) of the Act. That proceeding, if initiated, may be decided on its own merit, without being prejudiced by any observation made in this order. No order as to costs.

- iii) Judgment dated 24-2-2022 of Hon'ble High Court of Gujarat in the case of M/s. Aggarwal Dyeing and Printing Works Vs State of Gujarat and others.

19. In the result, all the writ applications deserve to be allowed solely on the ground of violation of principles of natural justice and, accordingly, the writ applications are allowed. We quash and set aside the respective show cause notices of all the writ applications, seeking cancellation of registration as well as the consequential respective impugned orders cancelling registration with liberty to the respondent No. 2 to issue fresh notice with particulars of reasons incorporated with details and thereafter to provide reasonable opportunity of hearing to the writ applicants, and to pass appropriate speaking orders on merits. It is needless to mention that it shall be open for the writ applicants to respond to such notices by filing objections / reply with necessary documents, if relied upon. We clarify that we have not gone into merits of the case.

- iv) Judgement dated 27-4-2022 of Hon'ble High Court of Gujarat in the case of M/s. Pantone Enterprises Pvt. Ltd Vs UOI and others.

In the light of observations made by this Court in the case of M/s. Aggarwal Dyeing and Printing works, the present writ applications succeed. The impugned show cause notices as well as the consequential orders cancelling registration and further order rejecting the revocation application seeking restoration of GSTN registration are hereby quashed and set aside.

In the light of aforesaid reasons recorded in paragraph 10, we hereby quash and set aside the order passed by the Additional Commissioner (Appeals). We further grant liberty to the respondent authority to issue fresh show cause notice with all material particulars as well as to furnish any particular piece of evidence, which the authority desires to rely upon the writ applicant to enable the writ applicants to respond effectively to such show cause notice. We also direct the respondent authority to grant opportunity to the writ applicants to submit their reply and other supporting documents as well as to provide sufficient opportunity for personal hearing and thereafter to pass speaking order dealing with all submissions and contentions, which may be raised by the writ applicants in the form of reply, which may be tendered before the respondent authority. It is needless to mention that we have otherwise not gone into the merits of each case. At the same time, we expect the respondent authority to follow the

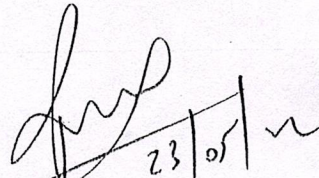


*observations made by this Court in the case of M/s.Aggarwal Dyeing and Printing Works.*

11. In view of above judicial pronouncements made in above cases I find that it is incumbent upon the Department to issue show cause notice for cancellation of registration or for rejection of application for revocation of cancellation, containing all material facts and details of the case duly supported with documentary evidences and to pass well-reasoned order after observing the principles of natural justice. In the subject appeal, none of the above criteria was following for issuing show cause notice and issuing orders. Therefore, respectfully following the decision rendered by Hon'ble High Court's supra, I hold that the order for cancellation of registration and order for rejection of application for revocation is not legal and proper and deserve to be set aside. I further order that the any application filed by the appellant for revocation of cancellation of registration, in consequent to this order, may be dealt with by the proper officer in accordance with provisions contained under CGST Act and Rules framed thereunder and show cause notice, if required, should be issued strictly as per guidelines issued by Hon'ble High Court's in above cases and orders should be passed after observing the principals of natural justice. Accordingly, I set aside the impugned order and allow the present appeal.

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

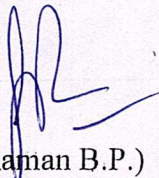
12. The appeal filed by the appellant stands disposed of in above terms.

  
(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested



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

By RPAD

To,

Shri Umeshkumar Gulabbhai Regar  
of M/s.Radhakrishna Enterprise,  
24, OM Industrial Park 1,  
Behind Tirthbhumi Industrial Park,  
Bakrol, Ahmedabad 382 430

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 Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 6) Guard File
- 7) PA file





