



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

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DIN- 20230364SW0000111A7E

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/2838/2022 -APPEAL

19863-69

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-263/2022-23**

दिनांक Date : **23-03-2023** जारी करने की तारीख Date of Issue : **24-03-2023**

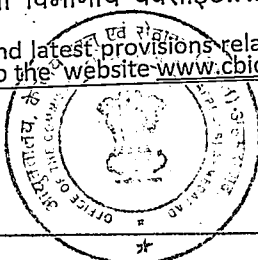
श्री मिहिर रायका_अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. **ZA240722090478A DT. 18.07.2022** issued by
The Superintendent, CGST, Ahmedabad. South

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
**Chirag Vinodkumar Patadia of M/s. Kanchan Jewellers, 16, Survarnkala Complex,
Opp. Panjabi Hall, Navrangpura, Ahmedabad-380009**

(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**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. Kanchan Jewellers (Legal Name – Chirag Vinodkumar Patadia)**, 16, Suvarnkala Complex, Opp. Punjabi Hall, Navrangpura, Ahmedabad (*Earlier Address – G-102, Abhushan Complex, Pothi Delu, Manek Chowk, Ahmedabad - 380 001*) (hereinafter referred to as "**Appellant**") against the Order No. ZA240722090478A dated 18.07.2022 (hereinafter referred to as "**impugned order**") passed by the Superintendent, CGST, Ahmedabad South (hereinafter referred to as "**the Adjudicating Authority/Proper Officer**").

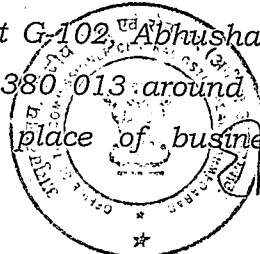
2. Facts of the case, in brief, are that the *appellant* is registered under the Central Goods and Services Tax Act, 2017 vide GST Registration GSTIN No. 24AIZPP8144M1ZA. A Show Cause Notice dated 07.07.2022 was issued to the *appellant*, wherein it was proposed that registration is liable to be cancelled for the reasons –

- *Registration is initiated for cancellation as per investigation conducted by the Preventive Wing, Central GST, Ahmedabad South and instructions given to this office vide letters F. No. GEXCOM/AE/INV/GST/1805/2022 dated 03.05.2022 and 14.06.2022*

Thereafter, the registration was cancelled vide *impugned order* dated 18.07.2022 for the aforesaid reasons as demonstrated in the SCN dated 07.07.2022. As per the *impugned order* the effective date of cancellation of registration is 02.07.2017.

3. Being aggrieved with the '*impugned order*', the '*appellant*' has preferred the present appeal on 02.09.2022. In the appeal memo the *appellant* has submitted that –

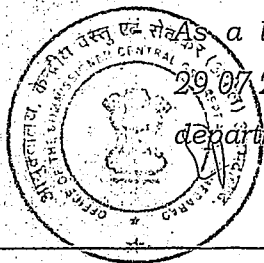
- *They are engaged in trading of gold jewellery and are registered with the GST Department, holding GST registration No. 24AIZPP8144M1ZA.*
- *They received notice dated 05.05.22 for cancellation of their GST Registration. The reason for proposal of cancellation of GST registration was that as per direction received on 03.05.22 from Deputy Commissioner (Preventive), CGST Ahmedabad South.*
- *In response to above notice, they submitted their reply dated 12.05.22 that their firm was running its business at G-102, Abhushan Complex, Pothi Delu, Manek Chowk, Ahmedabad – 380 013 around eight years back. However, they had shifted their place of business at 16,*



Suvarnkala Complex, Opp. Punjabi Hall, Navrangpura, Ahmedabad – 380 009 since last eight years. Earlier they were discharging VAT and was registered with VAT Department. However, on migration during GST regime, the place of business could not be mentioned as 16, Suvarnkala Complex, Opp. Punjabi Hall, Navrangpura, Ahmedabad – 380 009 on GST Portal, thus creating a state of confusion that the business premises of their firm was non existent. However, the fact remains that the appellant firm have paid their taxes regularly.

- The department did not consider their submissions and arbitrarily proceeded to issue order for cancellation of registration vide reference No. ZA240622114955L dated 22.06.2022 due to instruction received regarding investigation conducted by Preventive Wing, CGST Ahmedabad South, GSTN cancelled ab-initio.
- They made application on 27.06.22 for revocation of cancellation of registration. In response to said application the Assistant Commissioner, Division – I, Ahmedabad South had issued order for revocation of cancellation of registration vide ref. No. ZA240722024910W dated 05.07.22.
- Further, a notice dated 07.07.22 was again issued to them for cancellation of GST registration due to reason registration is initiated for cancellation as per investigation conducted by Preventive Wing, Central GST, Ahmedabad South and instructions given vide F. No. GEXCOM/AE/INV/GST/1805/2022 dated 03.05.2022 and 14.06.2022. However, the show cause notice did not inform the appellants the reasons mentioned in the above letter of preventive wing, which had resulted into cancellation of appellant registration.
- In response to above notice, vide letter dated 11.07.22 they submitted that due to mistake of their accountant, the registered premises was not amended for Manekchowk to Navrangpura and that they had made in application change of address of the principal place of business on 05.07.22 vide ARN AA240722016369A and requested to drop the SCN for cancellation of the GST registration.
- However, department did not consider any submission and arbitrarily proceeded to cancel the GST registration of the appellant vide GST REG 19 bearing Ref No. ZA 240722090478A dated 18.07.2022 due to reason that in view of investigation conducted by Preventive Wing, CGST, Ahmedabad South and instruction given vide letter F. No. GEXCOM/AE/INV/GST/1805/2022 dated 03.05.22 & 14.06.22.

As a last resort, the appellant again prayed vide their letter dated 29.07.22 received by department on 04.08.22, that CGST Preventive department had searched their premises on 02.04.22 and no discrepancy



was noticed by them and no search irregularity has been informed to them, then how could they accept the order for cancellation of GST registration twice without the GST Department informing the violation on their part.

- *As the respondent department has failed to respond to the communication made by them, they left with no option but to file an appeal, to set aside the order for cancellation of GST registration and Restoration of their GST registration.*

Accordingly, the appellant has filed the present appeal on following grounds:

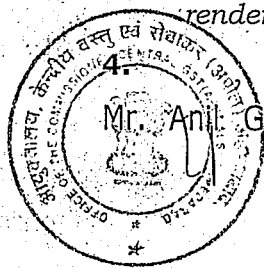
- *The learned Superintendent, CGST, Ahmedabad South has grossly erred in issuing impugned order for cancellation of registration due to reason that as per investigation conducted by Preventive Wing, CGST Ahmedabad South and instructions given to the office of the adjudicating authority, GSTN of the appellant has been cancelled ab initio.*
- *They had also filed an application for amendment of GST Registration as the earlier address could not be amended on the GST Portal due to the lapse on the part of their accountant by providing the reason that the new address of the principal place of business does not fall under the jurisdiction of the adjudicating authority, with a direction to file the application with correct jurisdiction. However, the same could not be done as the GST Registration of the appellant was already cancelled by the learned adjudicating authority illogical, arbitrary and without authority of law and as such the said GST REG 19 dated 22.06.22 and GST REG 05 dated 15.07.22 issued by the learned adjudicating authority is required to be set aside in the interest of justice.*
- *The sole issue required to be decided in the present appeal is as to whether the GST registration of the appellant can be cancelled without granting any reason which can be considered to be of such a serious nature that his GST registration is cancelled even though there is no GST violation in respect of the appellant firm.*
- *In spite of being aware of the facts that the appellant had filed all their GST returns regularly and there was no conclusion of investigation, which could establish that the reasons for cancellation of GST registration were genuine or otherwise and the above facts have not been disputed by either the preventive section or the learned adjudicating authority. Thus, the cancellation of GST registration is without any authority of law and ignoring judicial precedents.*
- *The only lapse that has occurred on their part is that they had failed to declare their principal place of business i.e. new address in the GST*



registration and the said lapse had occurred on the part of their accountant and was condonable lapse which could have been condoned, provided the facts that the appellants had complied with all the remaining provisions of GST law i.e. paying their taxes, filing their returns regularly and complying to all other compliances which are required to be followed by other tax payers, however, all the above submissions were not considered resulting in cancellation of GST registration without any reason or without any provisions of law. Thus, impugned order is required to be set aside on these grounds alone.

- The learned adjudicating authority has failed to give any reason as stipulated under Section 29(2) of the CGST Act, 2017 for suo moto cancellation of GST registration and in absence of any such allegation of violation of such provisions, the ld. Adjudicating Authority has acted beyond the powers conferred upon him in the Act in as much as he has proceeded to cancel the registration on the basis of communication received from some officer through email, who did not provide any concrete reason as to why registration of appellant should be cancelled and the learned adjudicating authority without knowing any reasons proceeded to cancel the GST registration. Thus, the cancellation of registration has been done without considering the facts of the case on arbitrary and illogical communication received from some officers. Thus, it is baseless, illegal and without application of provisions of law required to be applied for cancellation of GST registration. Thus, impugned order suffers from legal infirmities and is required to be set aside on these grounds alone.
- The officers of the GST Preventive, Ahmedabad South had during the search observed that the appellant is functioning at the address located at 16, Suvarnkala Complex, Opp. Punjabi Hall, Navrangpura, Ahmedabad, thus, the said address is required to be allowed to the appellant to be declared on GST Portal.
- The appellant wishes to rely on the judgment of Hon'ble High Court of Allahabad in the case of Apparent Marketing Pvt. Ltd. Vs. State of UP as reported at 2022 (59) G.S.T.L. 399 (All.). The judgment is squarely applicable in the instant case. Copy of judgment is annexed with appeal.
- In view of foregoing submissions, the impugned order may be set aside and allow them to make amendments of present principal place of business in GST Portal against their GST registration and therefore render justice.

Personal Hearing in the matter was held on 21.12.2022 wherein Mr. Anil Gidwani, Advocate appeared on behalf of the 'Appellant' as



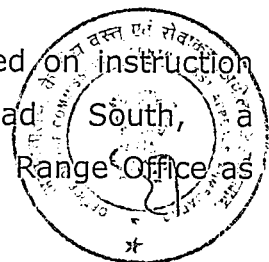
authorized representative. During P.H. they have informed that they have nothing more to add to their written submissions till date.

Discussion and Findings :-

5(i). 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 02.07.2017 by the *adjudicating authority* on the grounds that investigation conducted by Preventive Wing, CGST Ahmedabad South and instruction given to him vide letters dated 03.05.22 & 14.06.22. The *appellant* has mainly contended in the present appeal that their GST Registration is cancelled due to confusion about their principal place of business. As, eight years back they had shifted their business from G-102, Aabhusan Complex, Manek Chowk to new place of business at 16, Suvarnkala Complex, Navrangpura. However, during GST Regime, the place of business could not be mentioned as 16, Suvarnkala Complex, Navrangpura on GST Portal, thus created confusion that their business premises is non existent. The *appellant* has further stated that the only lapse occurred on their part is that they had failed to declare their principal place of business i.e. new address in the GST registration ; that the CGST Preventive had searched their premises on 02.04.22 and no discrepancy was noticed by them and no search irregularity has been informed to them.

5(ii). Further, I find that the *appellant* has contended that the *adjudicating authority* has not given any reason as stipulated under Section 29(2) of the CGST Act, 2017 for suo moto cancellation of GST registration and in absence of any such allegation of violation of such provisions, the *Adjudicating Authority* has acted beyond the powers conferred upon him in the Act in as much as he has proceeded to cancel the registration on the basis of communication received from some officer through email. The *appellant* has further contended that the learned *adjudicating authority* without knowing any concrete reasons for cancellation of registration, proceeded to cancel the GST registration. Therefore, the cancellation of registration has been done based on illogical communication received from some officers and without considering the facts of the case.

5(iii). Since, the registration is cancelled based on instruction received from the CGST Preventive, Ahmedabad South, a clarification/comments on the matter were called for from Range Office as

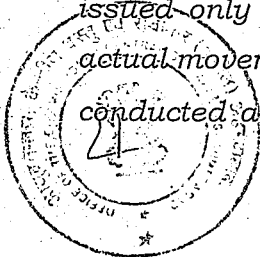


well as from CGST Preventive, Ahmedabad South. The Deputy Commissioner, Preventive Section, CGST Ahmedabad South vide letter dated 27.02.23 has clarified the matter as under :

- *During the course of inspection conducted by CGST Preventive Wing at registered premises of M/s. Kanchan Jewellers at G 102, Abhushan Complex, Manekchowk, Ahmedabad, it was noticed that M/s. Shivam Enterprise is functioning their business from said premises since inception of GST and M/s. Kanchan Jewellers was not found in existence at said premises.*
- *Shri Chirag Vinodkumar Patadia Proprietor of M/s. Kanchan Jewellers in his statement dated 05.04.2022 stated that M/s. Kanchan Jewellers was registered in VAT at that premises and he has sold out that premises about 9-10 years ago. Further, he never applied for change of address in the GST Portal. He has taken temporary office in Suvarnkala Complex in 2016 but he did not file amendment in the VAT department and further during the migration in the GST, the same address has been updated. He has further stated that after starting business of issuance of fake invoices, he intentionally did not file amendment to escape from the eye of CGST department.*
- *Harmonious reading of provisions of Section 29 (2) (e) of the CGST Act, 2017 it is clear that M/s. Kanchan Jewellers has obtained GSTIN Registration by means of fraud, willful misstatement or suppression of facts. Accordingly, it was forwarded to concerned division for cancellation after PH.*

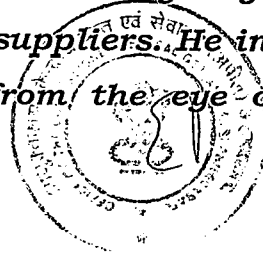
Further, the Superintendent, AR-IV, Division-I, CGST, Ahmedabad South has also submitted his reply/comments vide letter F. No. AR-IV/Div-I/Kanchan/22-23 dated 28.02.2023 as under :

- *As per direction vide letter F. No. GEXCOM/AE/INV/GST/1805/2022 issued by Deputy Commissioner (Preventive), CGST Ahmedabad South action for cancellation of registration was initiated. M/s. Kanchan Jewellers was found to be non-existent during the investigation and appropriated actions were required to be taken under Section 29 of the CGST Act, 2017 to safe guard the government revenue.*
- *The Deputy Commissioner (Preventive), CGST Ahmedabad South vide letter dated 14.06.2022 informed that Shri Chirag Vinodkumar Patadia in his statement dated 05.04.2022 admitted that he had issued only invoices to pass on ITC to various suppliers without actual movement of goods and M/s. Kanchan Jewellers had neither conducted any genuine business activity nor sold/purchased any*



- goods to anyone and only bogus invoices were issued to pass on ITC to various suppliers; that he intentionally did not file amendment to escape from the eye of the GST Department.
- The taxpayer has contravened the following provisions of the CGST Act, 2017 :
 - o Non fulfillment of condition laid down in Section 16(2) of CGST Act read with Rule 31 of the CGST Rules, 2017
 - o Section 22 of CGST Act read with Rule 8(4) of the CGST Rules, 2017 and Section 28 of the CGST Act read with Rule 19 of the CGST Rules, 2017 in as much as failed to declare and/or update the details of additional place of business in the information furnished under application for registration
 - o Rule 21 of the CGST Rules, 2017 lays that registration is liable to be cancelled if the said person does not conduct any business from the declared place of business or availed ITC in violation of the provisions of Section 16 of the CGST Act, 2017 or issues invoices or bill without supply of goods or services in violation of the provisions of this Act or Rules made thereunder.
 - In light of above observations, the registration of M/s. Kanchan Jewellers was liable to be cancelled under the provisions of Section 29 of the CGST Act, 2017 read with Rule 21 (e) of the CGST Rules, 2017. Therefore, this office is of the view that present appeal for revocation of cancelled registration should not be allowed.

5(iv). On going through the above stated replies received from the Deputy Commissioner (Preventive), CGST Ahmedabad South and the Superintendent, AR-IV, Division-I, CGST, Ahmedabad South I find that during the inspection at the declared place of business, M/s. Kanchan Jewellers was found non-existent. Further, the proprietor of the appellant firm Shri Chirag Vinodkumar Patadia in his statement dated 05.04.2022 has admitted that **“he had issued only invoices to pass on ITC to various suppliers without actual movement of goods and M/s. Kanchan Jewellers had neither conducted any genuine business activity nor sold/purchased any goods to anyone and only bogus invoices were issued to pass on ITC to various suppliers. He intentionally did not file amendment to escape from the eye of the GST Department.”**



6. In view of foregoing facts, I find that the *appellant* has submitted in the present appeal that they had shifted their business from the Abhushan Complex, Manek Chowk to Suvarnkala Complex, Navrangpura prior to GST regime, however, they did not applied for amendment in their registration neither in VAT nor in GST regime. Further, I find that the proprietor of the appellant firm in his statement has also admitted that he intentionally did not file amendment to escape from the eye of the GST Department. Further, I find that the proprietor of the appellant firm has also admitted in his statement that they had issued only bogus invoices to pass on ITC to various suppliers without actual movement of goods.

Accordingly, I hereby referred the relevant provisions of Section 29 of the CGST Act, 2017. The same is reproduced as under

Section 29. Cancellation [or suspension] of registration.

(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,-

(a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or

(b) a person paying tax under section 10 has not furnished ³[the return for a financial year beyond three months from the due date of furnishing the said return]; or

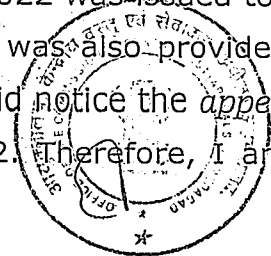
(c) any registered person, other than a person specified in clause (b), has not furnished returns for a ⁴[such continuous tax period as may be prescribed]; or

(d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or

(e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard:

In view of above, I find that in the matter of registration obtained by means of fraud, willful misstatement or suppression of facts the proper officer has the power to cancel the same after giving an opportunity of being heard. In the present matter I find that the *appellant* has obtained the registration by providing false information as the declared place of business was already sold to another person related to M/s. Shivam Enterprise and till the department started taking action did not applied for amendment in their registration details. Thus there was fraudulent and dishonest intention of the *appellant*. Further, I find that before cancelation of *appellant's* registration, a Notice dated 07.07.2022 was issued to the *appellant* and opportunity of personal hearing was also provided to the *appellant* on 13.07.2022. In response to said notice the *appellant* has also submitted their reply dated 11.07.22. Therefore, I am of




the view that the *adjudicating authority* has correctly followed the provisions of Section 29(2)(e) of the CGST Act, 2017 in the present matter. Considering the foregoing facts, I do not find any force in the contention of the *appellant*. Accordingly, I find that the proper officer has correctly cancelled the *appellant's* registration for safe guard of Government revenue in terms of Section 29 of the CGST Act, 2017.

7. In view of the above, I do not find any force in the contentions of the *Appellant*. Therefore, I do not find any reason to interfere with the decision taken by the '*Adjudicating Authority*' vide '*Impugned Order*'. Accordingly, I hereby reject the present appeal of the '*Appellant*'.

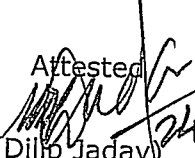
अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

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


23/03/23
(Mihir Rayka)

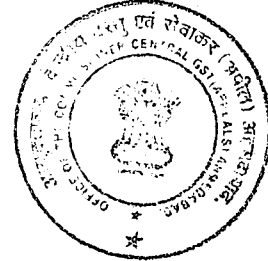
Additional Commissioner (Appeals)

Date: 23 .03.2023

Attested

24.3.23
(Dilip Jadav)
Superintendent (Appeals)

By R.P.A.D.

To,
M/s. Kanchan Jewellers
(Legal Name – Chirag Vinodkumar Patadia),
16, Suvarnkala Complex, Opp. Punjabi Hall,
Navrangpura, Ahmedabad



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/Asst. Commissioner, CGST, Division-I, Ahmedabad South.
5. The Superintendent, Range – IV, Div. I, Ahmedabad South.
6. The Superintendent (System), CGST Appeals, Ahmedabad.
7. Guard File.
8. P.A. File

