



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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टेलीफैक्स 07926305136



DIN- 20220664SW000000EB07

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/981/2022 -APPEAL / 1787 - 1793

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-53/2022-23**  
दिनांक Date : **16-06-2022** जारी करने की तारीख Date of Issue : **16-06-2022**

श्री मिहिर रायका\_अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. **ZA2412190011337 DT. 02.12.2019**  
issued by Superintendent, Ghatak-1, Ahmedabad South

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent  
**Shri Mukeshbhai Has Mukhlal Shah of M/s. Rishabh Cargo Movers, A/10,  
Smrudhi Tenament, Vatva Road, Isanpur, Ahmedabad-382443**

(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 Mukeshbhai Hasmukhlal Shah of M/s.Rishabh Cargo Movers, A/10, Samrudhi Tenament, Vatva Road, Isanpur, Ahmedabad 382 443 (hereinafter referred to as the appellant) has filed the present appeal on dated 6-4-2022 against Order No.ZA2412190011337 dated 2-12-2019 passed by the Superintendent, Range V, Division IV, Ahmedabad South (hereinafter referred to as the adjudicating authority).

2. The fact of the case is that the appellant was registered under GSTIN 24APUPS4496K2ZU. The appellant was issued show cause notice No.ZA241119080915C dated 22-11-2019 for cancellation of their registration due to non filing of returns for a continuous period of six months. The adjudicating authority vide impugned order ordered cancellation of their registration with effect from 2-12-2019 due to non- filing of reply to show cause notice and non-appearance in personal hearing. Being aggrieved the appellant filed the present appeal on the ground that the adjudicating authority has cancelled their GST number without giving any further opportunity to them. They had filed all the pending return till December 2019. They want to file refunds and carry-on business activities. The appellant vide their letter dated 24-5-2022 further intimated that due to prevalent covid and critical health conditions he couldn't filed the refund. He has paid requisite penalty and filed returns till December 2019. He was facing financial crush and suffering severe health issues. He requested for one month condonation of delay in filing of appeal and don't want personal hearing in the matter and requested to decide the case on the facts and grounds submitted in appeal memo expeditiously.

3. 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 2-12-2019 and the present appeal was filed on 6-4-2022 ie after a period of 2 years and four months which is very much beyond the three months time limit stipulated for filing appeal under Section 107 of CGST Act, 2017. However, as per Section 107(4) ibid, the appellate authority has powers to condone delay of one month in filing of appeal, over and above the prescribed period of three months as mentioned above, if sufficient cause is shown. In the subject case the appellant has requested to condone delay in filing of appeal due to health issues and covid situation which I find is a sufficient cause to grant further extension of one month for filing appeal. Accordingly, due date for filing of appeal falls on or before 1-4-2020. However as per Hon'ble Supreme Court's Order dated 10-1-2020 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. Therefore considering their request for waiver of personal hearing I proceed to decide the appeal on merits.

4. In the subject case the registration was cancelled due to non submission of reply to SCN wherein cancellation was proposed due to non filing returns for a continuous period of six months. I find that 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, I find that 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, in compliance to above Rules, they had submitted copy of GSTR3B return filed for the six month period till December 2019. I have verified from GST portal and find that the appellant has filed GSTR3B and GSTR1 return for six months period till December 2019. January 2021. The appellant further stated that they had paid penalty @ Rs.10,000/- pm for the period from January 2020 to March 22 also. In view of above since the appellant has filed this appeal for restoration of their registration for continuing their business activity after filing GSTR3B and GSTR1 returns for six month period till December 2019, in the interest justice and Government revenue, I allow this appeal for revocation of cancellation of their GST registration. I further order that the appropriate authority may consider their request for restoration of registration, in consequent to this Order, subject to provisions of Act, Rules and instructions in force 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।

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

Date :

Attested

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

To,

Shri Mukeshbhai Hasmukhlal Shah  
of M/s.Rishabh Cargo Movers,  
A/10, Sanrudhi Tenament,  
Vatva Road, Isanpur,  
Ahmedabad 382 443

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

Additional Commissioner (Appeals)

