



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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रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/2068/2021-APPEAL **1329-334**

ख अपील आदेश संख्या Order-In-Appeal Nos. AHM-CGST-001-APP-ADC-07/2022-23
दिनांक Date : 12-04-2022 जारी करने की तारीख Date of Issue : 12-04-2022

श्री मिहिर रायका_अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. ZA2403211238314 DT. 08.03.2021 issued by
Deputy Commissioner, Division I (Rakhial) Ahmedabad South

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
**Smt. Rupalben Ajitkumar Shah of M/s. Navkar Enterprises, 4th Floor, 417,
Kanak Chamber Opp Chandravilas Hotel, Gandhi Road, Ahmedabad-380001**

(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

Smt.Rupalben Ajitkumar Shah of M/s.Navkar Enterprises, 4th Floor, 417, Kanak Chamber Opp Chandravilas Hotel, Gandhi Road, Ahmedabad 380 001 (hereinafter referred to as 'the appellant') has filed the present appeal on dated 27-8-2021 against Order No.ZA2403211238314 dated 8-3-2021 (hereinafter referred to as 'the impugned order') passed by the Assistant Commissioner, CGST, Division I (Rakhial), Ahmedabad South (hereinafter referred to as the adjudicating authority).

2. Briefly stated the fact of the case is that the appellants' GSTIN Registration number 24AXQPS4344C2ZC was cancelled by the Superintendent CGST, Range IV, Division I, Ahmedabad South vide Order No.ZA240720034861T dated 9-7-2020, with effect from 9-7-2020 on the ground that they had not furnished returns for a continuous period of six months. The appellant has filed application for revocation of cancellation before the jurisdictional Division Office which was also rejected vide impugned order due to non filing of reply to notice issued under reference No.ZA240920064982D dated 15-9-2020.

3. Being aggrieved the appellant filed the present appeal on the ground that their accounts manager left the job in Covid 19 pandemic and could not able to appoint another accountant and there GST returns did not filed and not able to respond the notice dated 15-9-2020 issued to them. They requested to restore their GST number.

4. Personal hearing was held on dated 7-3-2022. Shri Sanket Thakker, authorized representative appeared on behalf of the appellant on virtual mode. He has been given three working days to make additional submissions.

5. I have carefully gone through the facts of the case, grounds of appeal, documents available on record. Before proceeding further, I put up on record that as per instruction dated 21-8-2020 issued by CBIC from File No.390/Misc/3/2019-JC read with Trade Notice No.2/2020 dated 9-9-2020 issued by this office, the record of personal hearing send to the appellant via given email ID is to be scanned, signed and send back to the appellant authority within 3 days of receipt of such email or else it will be presumed that they agree with the contents of emailed record of personal hearing and their case will be decided accordingly. Accordingly the record of personal hearing was send to the appellant via email on dated 7-3-2022. However till date the appellant has not send it back to this authority duly signed. Further no additional submission was submitted till date as stated during personal hearing. Therefore, I proceed to decide the appeal on merits.

6. At the outset, I find that the impugned order was communicated to the appellant on dated 8-3-2021 and present appeal was filed on dated 27-8-2021 ie after a period of 5 months and hence the appeal was filed beyond the time limit prescribed under Section 107 of the Act. However as per Hon'ble Supreme Court's Order dated 23-3-2020 ; Order dated 27-4-2021 and Order dated 23-9-2021, extending the time limit for filing of appeal, I hold that the present appeal is not hit by time limitation factor.

7. I find that in this case the registration was cancelled due to non filing returns for continuous period of six months under Section 29 (2) of CGST Act, 2017. The application filed for revocation of cancellation was also rejected due to non filing of reply to notice issued on dated 15-9-2020. In this regard I refer to relevant provisions contained under CGST Rules prescribing procedure for revocation of cancellation of registration as under:

Rule 23 of CGST Rules, 2017 : 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 [or within such time period as extended by the Additional Commissioner or the Joint Commissioner or the Commissioner, as the case may be, in exercise of the powers provided under the proviso to sub-section (1) of section 30, 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.

8. As per Rule 23 of CGST Rules, 2017, in case of cancellation of registration due to non filing of returns, the registered person need to file an application for revocation of cancellation of registration with proper officer within the prescribed time period after filing returns and paying applicable dues. Thus statutory provision envisage to apply for revocation of cancellation of registration only after filing the returns till the month of cancellation and after paying applicable dues. In the subject case the registration was cancelled with effect from 9-7-2020 due to non filing of returns for six month period. The appellant has also filed application of revocation of cancellation of their registration. However, due to rejection of their application filed for revocation of cancellation the appellant sought relief in appeal. However, the appellant has not furnished copy of returns filed till July 2020 and challans evidencing payment of dues while filing appeal. I find from the GST portal that the appellant has filed GSTR3B returns till May 2020 only and filed GSTR1 returns till March 2020 only. Therefore, due to non filing of returns till July 2020, I find that there is non-compliance of proviso to Rule 23 on the part of appellant. Since the appellant has sought relief without complying with the proviso to Rule 23 of CGST Rules, 2017, I do not accept the plea raised for revocation of cancellation of registration. Accordingly I upheld the impugned order and reject the appeal filed by the appellant.

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

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

Date :

Attested

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

(Mihir Rayka)

Additional Commissioner (Appeals)



By RPAD,

To,

Smt. Rupalben Ajitkumar Shah
M/s. Navkar Enterprises, 4th Floor, 417,
Kanak Chamber Opp Chandravilas Hotel,
Gandhi Road, Ahmedabad-380001

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 Additional Commissioner, Central Tax (Systems), Ahmedabad South
- 5) The Asst./Deputy Commissioner, CGST, Division-I, Ahmedabad South
- 6) Guard File
- 7) PA file

