



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- 20220764SW000000EA98

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/1544/2022 -APPEAL / 2155 - 2160

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-ADC-80/2022-23**

दिनांक Date : **20-07-2022** जारी करने की तारीख Date of Issue : **20-07-2022**

श्री मिहिर रायका_अपर आयुक्त (अपील) द्वारा पारित

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

ग Arising out of Order-in-Original No. **ZA241221184680T DT. 29.12.2021** issued by Superintendent, CGST, Range-I, Division I, Ahmedabad South

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent
Shri Salvani Jaikishan of M/s. Glamok Enterprises, C-17, Mohan Estate, Opp Anupam Cinema, Khokhra, Ahmedabad 380008

(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

Shri Savlani Jaikishan of M/s.Glamoak Enterprises, C-17, Mohan Estate, Opp Anupam Cinema, Khokhra, Ahmedabad 380 008 (hereinafter referred to as the appellant) has filed the present appeal on dated 16-4-2022 against Order No.ZA241221184680T dated 29-12-2021 (hereinafter referred to as the impugned order) passed by the Superintendent, CGST, Range I Division I, Ahmedabad South (hereinafter referred to as the adjudicating authority).

2. Briefly stated the fact of the case is that the appellant was registered under GSTIN 24JQGPS0379F1ZJ. The appellant was issued show cause notice reference No.ZA2412210591425 dated 15-12-2021 for cancellation of registration on the ground that the appellant has not filed returns for a continuous period of six months. The adjudicating authority vide impugned order ordered cancellation of their registration with effect from 1-3-2021 due to non filing of GSTR3B returns from March 2021. Being aggrieved the appellant filed the present appeal on the ground that the adjudicating authority had cancelled the registration taking suo motu cognition of non filing of returns for nine months ; the adjudicating authority ought to have provided the time for personal hearing or sufficient opportunity of time have not been provided; due to unforeseen events they were not able to file returns ; they are bona fide to discharge the liabilities under the Act and will undertake the same to file returns once registration stands active.

3. Personal hearing was held on dated 5-7-2022. Shri Parimal R Joshi, authorized representative appeared on behalf of the appellant on virtual mode. He stated that he has nothing more to add to their written submission till date.

4.. I have carefully gone through the facts of the case, grounds of appeal, submissions 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 29-12-2021 and present appeal was filed online on dated 16-4-2022 ie beyond the three months time limit prescribed under Section 107 of the Act. However as per Hon'ble Supreme Court's Order dated 10-1-2022 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.

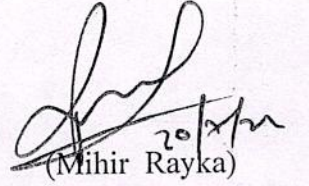
5. In the subject case the registration was cancelled retrospectively with effect from 1-3-2021 due to non filing of returns for a continuous period of six months. As per Rule 23 of CGST Rules, 2017, in case of cancellation of registration due to non filing of returns under Section 29 (2) of CGST Act, 2017 the registered person needs 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. Proviso 3 to Rule 23 further provides 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. In the subject case, registration was cancelled on dated 29-12-2021 retrospectively with effect from 1-3-2021. In such circumstances, proviso 3 to Rule 23 of CGST Rules, 2017 allows to file returns within thirty days of revocation of cancellation of registration. 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 but filed the present appeal for activating their GST registration giving willingness to pay tax and other dues and file returns. They had also submitted details of tax liability, late fees and also submitted challan towards payment of part amount of tax and late fee. In view of above, in the interest of justice, fairness and Government revenue, I allow this appeal for revocation of cancellation of their GST registration to enable them to pay tax and file returns. I further order that the appropriate authority may consider their request for revocation of cancellation of their registration made in consequent to this Order in accordance with the provisions of CGST Act and Rules framed thereunder and after verifying the 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।

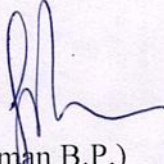
6.. The appeal filed by the appellant stands disposed of in above terms.


(Mihir Rayka)

Additional Commissioner (Appeals)

Date :

Attested



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

To,

Shri Savlani Jaikishan
of M/s.Glamoak Enterprises,
C-17, Mohan Estate,
Opp Anupam Cinema, Khokhra,
Ahmedabad 380 008

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

