



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- 20230764SW000000E4B9

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/1361/2023 -APPEAL / 3002 - 3008

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-JC-52/2023-24**

दिनांक Date : **10-07-2023** जारी करने की तारीख Date of Issue : **10-07-2023**

श्री आदेश कुमार जैन संयुक्त आयुक्त (अपील) द्वारा पारित

Passed by Shri.Adesh Kumar Jain, Joint Commissioner (Appeals)

ग Arising out of Order-in-Original No. **ZA240323196814F DT. 30.03.2023**

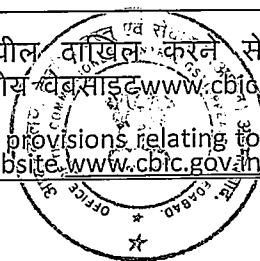
issued by The Superintendent,CGST, Ahmedabad South

घ अपीलकर्ता का नाम एवं पता Name & Address of the Appellant / Respondent

Dhruv Korat of M/s. K.K. Trading Company, Shed No. H-252,

Abhishree Industrial Park, Ring Road Circle, Ahmedabad-382415

(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.cbtc.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.cbtc.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. K. K. Trading Company (Legal Name – Dhruv Korat)**, Shed No. H-252, Abhishree Industrial Park, Ring Road Circle, Ahmedabad – 382 415 (hereinafter referred to as "**Appellant**") against the Order No. ZA240323196814F dated 30.03.2023 (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 24KTBPK7774R1ZN. A Show Cause Notice was issued to the appellant, wherein it was proposed that registration is liable to be cancelled for the reasons that "*In case, Registration has been obtained by means of fraud, willful misstatement or suppression of facts*". Thereafter, the registration was cancelled vide *impugned order* for the following reasons :

"As per Letter No. STO-3/UNIT-15/Enforcement/2022-23/5012 dated 04.03.2023 by State Tax Officer (3), Unit-15, Ahmedabad informed about GSTIN 24KTBPK7774R1ZN were found fake/bogus billing activity and involved in taking and passing of ineligible ITC on the strength of fake invoices without movement of actual goods/services and have directed to cancel GST registration Ab-initio i.e. from the date of registration 26.05.2022. Accordingly GST Registration cancelled."



3. Being aggrieved with the *impugned order* dated 30.03.2023 the *appellant* has preferred the present appeal on 27.04.2023. In the appeal memo the appellant has submitted that -

- they were engaged in business of trading of M.S./S.S./Aluminium Scrap
- they have filed all GST Returns up to February'2023
- they were doing the wholesale business of metal/scrap. They were buying material through few brokers and were delivered at the premises of their customer as per their requirements.
- They received SCN under FORM GST REG-17 on 07.03.23 for cancellation of registration. They responded to the notice on 13.03.2023 that they have not obtained registration by means of fraud, willful statement or suppression of facts ; that they have provided all correct and true

information at the time of obtaining registration ; hence SCN is bad in law and liable to be quashed.

- Without considering their reply the adjudicating authority has cancelled the registration of appellant suo-moto.

In view of above submissions the appellant has filed the present appeal on the following grounds :

- Impugned order issued without providing proper opportunity of hearing.
- Cancellation Authority has relied upon letter received from SGST Department. The authority has not gone into the depth of case and cancellation order is not passed based on his own findings.
- So, the notice of cancellation of registration as well as order of cancellation of registration is not liable to be sustained. So those are required to be set aside.
- Learned authority has not examined any documentary evidences and records of the appellant. So order of cancellation is in violation of the principal of natural justice and baseless as well as bad in law.
- During 2022-23 they have done significant amount of tax payment through cash ledger. Learned authority has not considered this before passing order of cancellation of registration with retrospective effect.

4. Personal Hearings in the matter were offered to the "Appellant" on 19.05.2023, 30.05.2023 and on 07.06.2023. However, no one appeared for the PH on the Scheduled dates and also not received any communication from appellant in this regard. Thereafter, due to change of Appellate Authority another opportunity of Personal Hearing was offered 30.06.2023 however, no one appeared for PH on scheduled date.

The Personal Hearings were informed through letters F. No. GAPPL/ADC/GSTP/1361/2023/1340, 1610, 1791 & 2391 dated 12.05.2023, 19.05.23, 31.05.23 & 22.06.23 respectively. The said letters were dispatched to the appellant at their address at Shed No. H-252, Abhishree Industrial Park, Ring Road Circle, Ahmedabad-382415 through India Post. Further, said PH letters were also mailed on email id of the jurisdictional CGST Division Office as well as on email id *shivamtax@outlook.com* of the authorized representative namely Sh. Jay V. Thakkar.

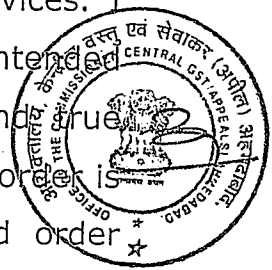
Discussion and Findings :-

5. I have carefully gone through the facts of the case, grounds of appeal, submission made by the appellant and documents available on records. I find that the appellant has been given the sufficient number of Personal Hearing, before deciding the matter by this appellate

authority however, no one responded to the PH letters. Therefore, there is no other option to decide the matter except decide the same based on available records.

6. The issue involved in the present matter is that the GST registration of *Appellant* has been cancelled *suo-moto* by the *adjudicating authority*. I find that the authority before cancelling registration has issued a notice to the appellant that GST Registration is liable to be cancelled on the grounds that *"In case, Registration has been obtained by means of fraud, willful misstatement or suppression of facts"*. Further, I find that the adjudicating authority has cancelled the registration on the grounds that they received a communication from the State GST Department that the appellant is involved in fake/bogus billing activity as well as involved in taking and passing ineligible ITC on the strength of fake invoices without actual movement of goods/services.

7. In view of above facts I find that the registration of appellant is cancelled mainly on the grounds that the appellant is involved in fake/bogus billing activity as well as involved in taking and passing Input Tax Credit based on fake invoices i.e. without actual movement of goods/services. I find that the *appellant* in the present appeal proceedings mainly contended that they have obtained registration by providing all correct and true information. The appellant has further contended that the impugned order is issued without providing them proper opportunity of hearing and order passed based on communication received from State GST, thus order is not passed based on own findings by adjudicating authority.



8. As regards to contention of appellant that proper opportunity of hearing was not provided them before passing impugned order, on going through the copy of SCN dated 07.03.2023 I find that Personal Hearing was scheduled on 13.03.2023. Further, in the present appeal proceedings I find that opportunity of personal hearings were provided to the appellant on 19.05.2023, 30.05.2023, 07.06.2023 and on 30.06.2023, however, neither the appellant has attended any of the PH on scheduled dates nor furnished any further submissions in support of their defense. Therefore, I do not find force in the appellant's contention that proper opportunity of hearing was not provided to them before passing impugned order.

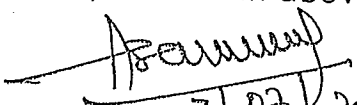
9. Further, I find that the State GST has made allegation that the

appellant is involved in fake/bogus billing activity and also involved in taking/passing ITC based on fake invoices i.e. without actual movement of goods/services. However, I do not find any genuine/valid or reliable submissions of appellant with supportive documents in support of their defense that they are not involved in any such activity. Further, no such documents/communication produced by the appellant in present appeal proceedings that they have taken up the matter with State GST Department about the above stated allegations.

10. In view of foregoing discussions, 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'.

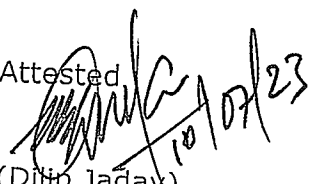
अपीलकर्ता द्वारा दर्ज की गई अपील का निपटारा उपरोक्त तरीके से किया जाता है।

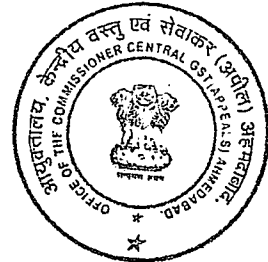
The appeal filed by the *appellant* stands disposed of in above terms.


07/07/2023
(Adesh Kumar Jain)
Joint Commissioner (Appeals)

Date: 07.07.2023

Attested


(Dilip Jadau)
Superintendent (Appeals)
By R.P.A.D.



To,
M/s. K. K. Trading Company
(Legal Name – Dhruv Korat),
Shed No. H-252, Abhishree Industrial Park,
Ring Road Circle, Ahmedabad – 382 415

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/Assistant Commissioner, CGST, Division-V, Ahmedabad South.
5. The Superintendent, Range – I, Division – V, Ahmedabad South.
6. The Superintendent (Systems), CGST Appeals, Ahmedabad.
7. Guard File.
8. P.A. File

