



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- 20230764SW0000111D97

रजिस्टर्ड डाक ए.डी. द्वारा

क फाइल संख्या : File No : GAPPL/ADC/GSTP/1393/2023 -APPEAL /3937 - 113

ख अपील आदेश संख्या Order-In-Appeal Nos. **AHM-CGST-001-APP-JC-68/2023-24**

दिनांक Date : **25-07-2023** जारी करने की तारीख Date of Issue : **27-07-2023**

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. **ZA240123064932S DT. 11.01.2023**

issued by The Assistant Commissioner, CGST, Ahmedabad South

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

**Dineshkumar Kashyap of M/s. Elteer Inq Traders, 44/A, Bhagwati Nagar,
B/H Lal Bunglow, Ramol Road, Ahmedabad-380026**

(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. Elteer Inq Traders**, 44/A, Bhagwati Nagar, B/h. Lal Bungalow, Amraiwadi, Ahmedabad - 380 026 (hereinafter referred to as "**Appellant**") against the Order No. ZA240123064932S dated 11.01.2023 (hereinafter referred to as "**Impugned Order**") passed by the Assistant Commissioner, 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 24CMPPK6415A2Z9. A Show Cause Notice dated 25.11.2022 was issued to the appellant, wherein it was proposed that registration is liable to be cancelled for the reasons that "*Discrepancies noticed while conduct of Physical Verification*". Thereafter, the registration was cancelled by the Superintendent of CGST, Ahmedabad South vide Order No. ZA241222104471A, dated 20.12.2022 on the grounds/reasons that *officers had visited the principal place of business for physical verification and found the place to be non-existent.*



3. The appellant has accordingly filed '*application for Revocation of Cancellation*'.

Thereafter, the adjudicating authority has passed the *impugned order* as under :

The reply has been examined and the same has not been found to be satisfactory for the following reasons :

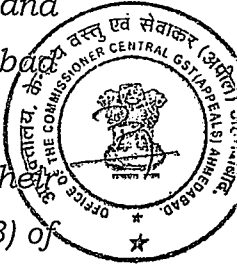
"The applicant has never appeared for the Personal Hearing for any type of application made to the department. You have failed to appear for the Personal Hearing in the present case and just buying time. The reasons for extending the Personal Hearing are unconvincing. Field officers had visited the principal place of business for physical verification, and found

the place to be non-existent. Hence, the present claim for revocation is unacceptable.

Therefore, your application is hereby rejected in accordance with the provisions of the Act."

4. Being aggrieved with the *impugned order* dated 11.01.2023 the *appellant* has preferred the present appeal online on 17.03.2023 and submitted the appeal offline on 18.04.23 along with relevant documents. In the appeal memo the appellant has submitted that -

- *They are proprietorship firm, carrying on business of trading, manufacturing and job work of all kind of machineries and parts thereof.*
- *They received SCN for cancellation of their GST registration indicating reason as "Discrepancies noticed while conduct of Physical Verification". In this regard, appellant submits that at the time of physical verification, they were out of city with a view to attending religious function and accordingly Appellant could not be available at the time of physical verification.*
- *The proper officer had erroneously passed order for cancellation of registration by wrongly mentioning as per field visit carried out and directions from the Assistant Commissioner, Div-I, CGST Ahmedabad South, without visiting business premises of the appellant.*
- *Proper Officer had uploaded SCN dated 25.11.22 and suspended their registration w.e.f. 25.11.22 is illegal and bad in law. As per sub-rule (3) of Rule 22 the authority concerned is required to cancel Registration within period of 30 days of date of reply of SCN. Reliance placed on judgment delivered by Hon'ble High Court of Rajasthan in the case of Avon Udhog V/s. State of Rajasthan S. B. Civil Writ Petition No. 7463 of 2021 on July 5, 2021 reported at [2021] 128 taxman.com 122 (Rajasthan).*
- *They had made an application for amendment on 10.10.2022. The proper officer had issued notice to the appellant seeking additional information. They had handed over all documents to the Consultant which were demanded by learned proper officer. However, the proper officer has rejected application for amendment categorically contending that the reply has been examined and the same has not been found to be satisfactory for the reason "no response for the query raised". The proper Officer had never made an endeavor to verify physically business premises of the Appellant and wrongly issued SCN for rejection of Application for Revocation of Cancellation of Registration wrongly coming to conclusion*



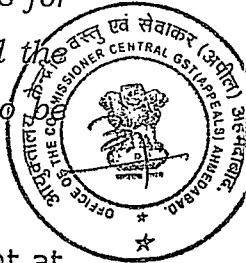
Discussion and Findings :-

6. I have carefully gone through the facts of the case, grounds of appeal, submission made by the *appellant* and documents available on records. The authorized representative during last personal hearing dated 19.07.2023 had stated that they will submit the additional written submission within 03-04 days. However, I find that no such additional written submission has been submitted by them till date.

I find that the issue involved in the present matter is that the GST registration of Appellant is cancelled on the basis of field visit report as well as subsequent directions of Assistant Commissioner, Div. I, CGST Ahmedabad South. Further, I find that the '*application for revocation of cancellation*' made by *appellant* against aforesaid registration cancellation order has been rejected by the *adjudicating authority* vide *impugned order* on the grounds that *appellant never appeared for the Personal Hearing for any type of application made to the department. Appellant have failed to appear for the Personal Hearing in the present case and just buying time. The reasons for extending the Personal Hearing are unconvincing. Field officers had visited the principal place of business for physical verification, and found the place to non-existent.*

The *appellant* in the present appeal has mainly contended that at the time of physical verification they were out of station and therefore could not available during physical verification. The *appellant* has further contended that the proper officer had erroneously passed order for cancellation of registration by wrongly mentioning as per field visit carried out and directions from the Assistant Commissioner, without visiting business premises of the *appellant*.

7. In view of above, I find that the registration of *appellant* is mainly cancelled on the ground that during physical verification it was noticed that the place was non-existent. Further, the *adjudicating authority* has passed *impugned order* vide which rejected the appellant's application for revocation of cancellation on the grounds that the appellant has never appeared for the Personal Hearing for any type of application made to the department and the field officers had visited the principal place of business for physical verification, and found the place to be non-existent.



8. Further, during Personal Hearing held on 19.07.2023, the appellant has referred and relied upon the judgment delivered by Hon'ble High Court of Allahabad in the case of Viraj Polymers (P) Ltd. reported at [2023] 148 taxmann.com 465 (Allahabad) dated 16.03.2023 and the judgment delivered by Hon'ble High Court of Gujarat in case of Aggarwal Dying and Printing Works reported at [2022] 137 taxmann.com 332 (Gujarat) dated 24.02.2022.

On going through the case of Viraj Polymers (P) Ltd. reported at [2023] 148 taxmann.com 465 (Allahabad) dated 16.03.2023, I observed that the issue was that the unit was found closed and it was informed by a person that the firm never opened and just opened 7 to 8 times in a month. Further, having gone through the case of Aggarwal Dying and Printing Works reported at [2022] 137 taxmann.com 332 (Gujarat) dated 24.02.2022, I find that cancelation of registration was due to non filing of returns for a continuous period of six months. Therefore, I find that the facts and ground of statement of present case are not identical to the cases appellant relied upon.



9. Further, I find that during the personal hearing the appellant has made argument that their registration is cancelled based on direction of another Authority, however, I find that the registration was cancelled by the Superintendent not only based on direction of Assistant Commissioner, Div. I, Ahmedabad South but in fact it is based on Physical Verification on which it was found that the place of business was non-existent. In this regard, I have referred Rule 21 of the CGST Rules, 2017, which is reproduced as under :

Rule 21. Registration to be cancelled in certain cases. –


The registration granted to a person is liable to be cancelled, if the said person, -
 (a) *does not conduct any business from the declared place of business ; or*

In view of aforesaid provisions the proper officer has the power to cancel the registration in the matter where the registration granted to a person who does not conduct any business from declared place of business.

10. In view of the 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।

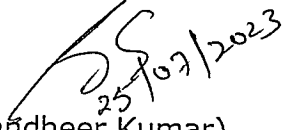
The appeal filed by the *appellant* stands disposed of in above terms.

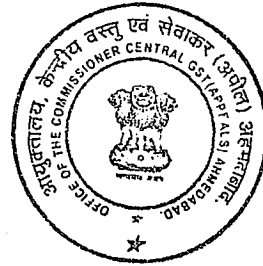

25/07/2023

(Adesh Kumar Jain)
Joint Commissioner (Appeals)

Date: 25.07.2023

Attested


25/07/2023
(Sandheer Kumar)
Superintendent (Appeals)



By R.P.A.D.

To,
M/s. Elteer Inq Traders,
44/A, Bhagwati Nagar,
B/h. Lal Bungalow, Amraiwadi,
Ahmedabad - 380026

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-I, Ahmedabad South.
5. The Superintendent, Range - III, Division - I, Ahmedabad South.
6. The Superintendent (Systems), CGST Appeals, Ahmedabad.
- ✓ 7. Guard File.
8. P.A. File

