

सत्यमेव जयते

आयुक्तकाकार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeal Ahmedabad Commissionerate
जीएसटी भवन, राजस्व मार्ग, अम्बावाडी अहमदाबाद ३८००१५.
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(क)	फाइल संख्या / File No.	GAPPL/ADC/GSTP/1334/2024/433-88
(ख)	अपील आदेश संख्या और दिनांक / Order-In - Appcal and date	AHM-CGST-001-APP-JC-06/2024-25 and 16.04.2024
(ग)	पारित किया गया / Passed By	श्री आदेश कुमार जैन, संयुक्त आयुक्त (अपील) Shri Adesh Kumar Jain, Joint Commissioner (Appeals)
(घ)	जारी करने की दिनांक / Date of Issue	19.04.2024
(ङ)	Arising out of Order-In-Original No. ZA2411230444333 dated 08.11.2023 passed by The Superintendent, CGST Division- I, Ahmedabad South.	
	Name of the Appellant	Name of the Respondent
(च)	M/s Shri Prabhavi Corporation (Legal Name: Abhishek Shaileshbhai Shukla), 3/30, Chandraprakash Society, Old Pilot Dairy Road, Kankaria, Ahmedabad, Gujarat, 380022	The Superintendent, CGST Division- I, Ahmedabad South



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.

(13) 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 AP1-05, 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 AP1-05 online.

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.

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।

(C) 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. Shri Prabhavi Corporation (Legal Name - Abhishek Shaileshbhai Shukla)**, 3/30, Chandraprakash Society, Old Pilot Dairy Road, Kankaria, Ahmedabad Gujarat 380022 (hereinafter referred to as "**Appellant**") against the Order No. ZA2411230444333 dated 08.11.2023 (hereinafter referred to as "**Impugned Order**") passed by the Superintendent, CGST, Dn. II, Ahmedabad South Comm'te. (hereinafter referred to as "**the Adjudicating Authority/Proper Officer**").

2. Brief facts of the case are that the *appellant* is registered under the Central Goods and Services Tax Act, 2017 vide GST Registration GSTIN 24CNOPS4202F2Z1 for carrying out their business. A Show Cause Notice dated 15.01.2023 was issued to the appellant, wherein it was proposed that registration is liable to be cancelled for the reasons of failure to furnish returns for a continuous period of six months. Thereafter, the registration was cancelled vide *impugned order* with effect from 24.04.2023 citing the reference of the show cause notice issued. The appellant was directed to pay tax and other dues under the Act and to file Form GSTR-10 within three months of the date of impugned order.

Being aggrieved with the *impugned order* dated 08.11.2023 the *appellant* has preferred the present appeal on 09.01.2024. In the appeal memo the appellant has submitted that –

- They are engaged in providing works contract supply services to Ahmedabad Municipal Corporation; Their GST registration was cancelled suo-moto w.e.f. 24.04.2023 due to non-filing of GST returns for continuous period for more than six months;
- The reason for which they could not file the GST returns was their Accountant did not prepare nor filed returns on time despite he had details available.
- They are ready to pay the pending dues from June'2022 to February'2024 along with interest and late fees and would be regular in filing their returns.

With the above submissions, the appellant has requested to allow their appeal and requested for revocation of the cancellation of registration.

PERSONAL HEARING

4. Personal Hearing in the matter was heard on 14.03.2024 and 28.03.2024 whereby Shri Stavan Bhadresh Dwivedi, Chartered Accountant appeared before me on behalf of the appellant as authorized representative. He submitted that they will pay all dues along with interest, penalty and late fee etc. They could not file their returns on time as their Consultant didn't inform them in time and requested to allow appeal.

DISCUSSION & FINDINGS

5. I have carefully gone through the facts of the case and appeal memorandum/grounds of appeal. In the instant matter the present appeal is filed by appellant on 09.01.2024 against the Order-in-Original dated 08.11.2023. Therefore, first of all, I would like to take up the issue of filing the appeal and before deciding the issue of filing the appeal on merits, it is imperative that the statutory provisions be gone through, which are reproduced, below:

SECTION 107. Appeals to Appellate Authority. — (1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is communicated to such person.

(2)

(3)

(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a **further period of one month.**

I find that the appeal is filed well within the normal period and I proceed further to decide the case.

6. I have carefully gone through the facts of the case, written submissions made by the "Appellant". I find that the *adjudicating authority/proper officer* has cancelled the registration with effect from 24.04.2023 as the appellant failed to file their monthly returns for a continuous period of over six months.

7. Further, I find that the provisions of revocation of cancellation of registration when the same is cancelled by the proper officer on suo-moto basis are contained in Section 30 of the CGST Act, 2017 and Rule 23 of the CGST Rules, 2017. Therefore, I find it pertinent to refer Section 30 and Rule 23 as under: -

SECTION 30. Revocation of cancellation of registration. — (1) Subject to such conditions as may be prescribed, any registered person, whose

registration is cancelled by the proper officer on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order :

[Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended, -

(a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding thirty days;

(b) by the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a).]

(2) The proper officer may, in such manner and within such period as may be prescribed, by order, either revoke cancellation of the registration or reject the application :

Provided that the application for revocation of cancellation of registration shall not be rejected unless the applicant has been given an opportunity of being heard.

(3) The revocation of cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under this Act.

RULE 23. Revocation of cancellation of registration.— (1) 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 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 :

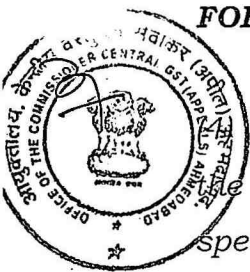
[Provided further that all returns due for the period from the date of the order of cancellation of registration till the date of the order of revocation of cancellation of registration shall be furnished by the said person within a period of thirty days from the date of order of revocation of cancellation of registration :

Provided also 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.]

(2) (a) Where the proper officer is satisfied, for reasons to be recorded in writing, that there are sufficient grounds for revocation of cancellation of registration, he shall revoke the cancellation of registration by an order in **FORM GST REG-22*** within a period of thirty days from the date of the receipt of the application and communicate the same to the applicant.

(b) The proper officer may, for reasons to be recorded in writing, under circumstances other than those specified in clause (a), by an order in **FORM GST REG-05***, reject the application for revocation of cancellation of registration and communicate the same to the applicant.

(3) The proper officer shall, before passing the order referred to in clause (b) of sub-rule (2), issue a notice in **FORM GST REG-23*** requiring the applicant to show cause as to why the application submitted for revocation under sub-rule (1) should not be rejected and the applicant shall furnish the reply within a period of seven working days from the date of the service of the notice in **FORM GST REG-24***.



Upon receipt of the information or clarification in **FORM GST REG-24***, the proper officer shall proceed to dispose of the application in the manner specified in sub-rule (2) within a period of thirty days from the date of the receipt of such information or clarification from the applicant.

8. Further, I find that the Central Board of Indirect Taxes & Customs, New Delhi has clarified the issue vide circular No. 99/18/2019-GST dated 23.04.2019. Para 3 of said circular read as under:

“3. First proviso to sub-rule (1) of rule 23 of the said Rules provides that if the registration has been cancelled on account of failure of the registered person to furnish returns, no application for revocation of cancellation of registration shall be filed, unless such returns are furnished and any amount in terms of such returns is paid. Thus, where the registration has been cancelled with effect from the date of order of cancellation of registration, all returns due till the date of such cancellation are required to be furnished before the application for revocation can be filed. Further, in such cases, in terms of the

second proviso to sub-rule (1) of rule 23 of the said Rules, all returns required to be furnished in respect of the period from the date of order of cancellation till the date of order of revocation of cancellation of registration have to be furnished within a period of thirty days from the date of the order of revocation.”

9. During personal hearing the appellant has assured that as they want to start business activity and are ready to pay the remaining dues alongwith interest, penalty and late fee and also would be regular in filing their GST returns. Hence, I find that the “Appellant” has complied with the above said provisions in the instant case. Further, the “Appellant” submitted that the non-compliance of the filing of GST returns more than six months, since they depend upon their Consultant for filing returns, he did not inform them neither about the timeline for filing GST returns nor to pay the dues and inadvertently not filed the GST returns. Now, they are agreed to and ready to pay their all GST liabilities alongwith interest, penalty and late fees till date as per the GST Act. So, I find that the “Appellant” has complied with the above said provisions in the instant case, I am of the opinion that the appellant should not to suffer any more looking to the interest of government revenue. In view of the above, since the appellant has filed this appeal for restoration of their cancelled registration for continuing their business activity, so, in the interest of justice, fairness and government revenue, I allow this appeal to consider revocation of cancellation of their registration. Needless to say that the “Appellant” shall furnish all the 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.

10. In view of above discussions, I am of the opinion that the registration of “Appellant” may be considered for revocation by the proper officer subject to due compliance of the conditions by the “Appellant” under Rule 23(1) of CGST Rules, 2017. Accordingly, I allow the appeal of the “Appellant” and order to the proper officer to consider the revocation application of the “Appellant” after due verification of payment particulars of tax, penalty, late fee, interest and status of returns.



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

The appeals filed by the appellants stand disposed of in above terms.

Asanup
16/04/2024
(Adesh Kumar Jain)

Joint Commissioner (Appeals)

// Attested //

Date: .04.2024

Vijayalakshmi V
(Vijayalakshmi V)
Superintendent (Appeals)
Central Tax, Ahmedabad.



By R.P.A.D.

To

M/s. Prabhavi Corporation
Legal Name: Abhishek Shaileshbhai Shukla
3/30, Chandraprakash Society,
Old Pilot Dairy Road, Kankaria
Ahmedabad, Gujarat 380022

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/Asstt. Commissioner, CGST, Division-I, Ahmedabad South.
5. The Superintendent (Systems), CGST Appeals, Ahmedabad.
6. Guard File.
7. P.A. File