



सत्यमेव जयते

आयुक्तकाकार्यालय
Office of the Commissioner
केंद्रीय जीएसटी, अपील अहमदाबाद आयुक्तालय
Central GST, Appeal Ahmedabad Commissionerate
जीएसटी भवन, राजस्व मार्ग, अम्बावाड़ी अहमदाबाद ३८००१५.
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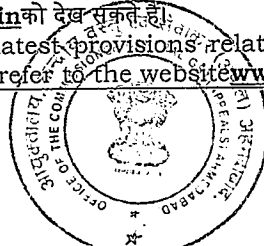


By Regd. Post

DIN NO.: 20240564SW000000AC50

(क)	फ़ाइल संख्या / File No.	GAPPL/ADC/GSTP/2712/2024 5279-83
(ख)	अपील आदेश संख्या और दिनांक / Order-In -Appeal and date	AHM-CGST-001-APP-JC-37/2024-25 and 22.05.2024
(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	22.05.2024
(ङ)	Arising out of Order-In-Original No. ZA240224141863R dated 23.02.2024 passed by The Assistant Commissioner, CGST, Division-VIII, Ahmedabad-South Commissionerate	
(च)	अपीलकर्ता का नाम और पता / Name and Address of the Appellant	M/s Asharfi Kulfi (Legal Name: Neelam Pavanbhai Gupta) L/14, Surganga Complex, Ahmedabad, Guajrat-380051

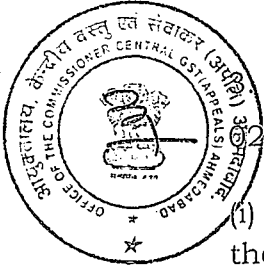
(A)	इस आदेश(अपील) से व्यथित कोई व्यक्ति निम्नलिखित तरीके में उपयुक्त प्राधिकारी /प्राधिकरण के समक्ष अपील दायर कर सकता है। Any person aggrieved by this Order-in-Appeal may file an appeal to the appropriate authority in the following way.
(i)	National Bench or Regional Bench of Appellate Tribunal framed 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) <u>Full amount of Tax, Interest, Fine, Fee and Penalty</u> arising from the impugned order, as is admitted/accepted by the appellant; and (ii) A sum equal to <u>twenty five per cent</u> 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 .



अपीलिय आदेश/ 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. Ashrfi Kulfi, (Legal Name : Neelam Pavanbhai Gupta)** L/14, Surganga Complex, Ahmedabad - 380051 (hereinafter referred to as "Appellant") against the Order No. ZA240224141863R dated 23.02.2024 (hereinafter referred to as "*Impugned Order*") passed by the Proper Officer, CGST, Division - VIII, Ahmedabad South (hereinafter referred to as "*the Adjudicating Authority/Proper Officer*").

2. Facts of the case, in brief, are that the *appellant* is registered with GSTN registration No. 24BNEPG3536R1ZP. It appears that the appellant had applied for revocation of cancellation of GSTN registration. As the appellant had not responded to the Show Cause Notice issued on 08.02.2024, their application for revocation of cancellation of GSTN registration has been rejected vide impugned order dated 23.02.2024 stating reasons that the appellant did not reply to the show cause notice within the time specified therein.



Being aggrieved with the impugned order, the appellant filed appeal on 22.05.2024 on the following grounds:-

- (i) that the officer has rejected their application for revocation of GSTN that the appellant has not complied with the SCN dated 08.02.2024. The appellant states that the allegation is objected to and disputed on the ground that they had complied with the said notice.
- (ii) that the appellant runs a small business and was not aware that Aadhaar Authentication is mandatory; since they had error in aadhar authentication could not be completed by the designated authorities and hence time limit for aadhar authentication was missed.
- (iii) Had the aadhar authentication had been revived timely, the appellant would have paid the entire tax
- (iv) with the above submissions requested to allow their appeal and restore their GSTN registration.

PERSONAL HEARING

4. Personal hearing in the matter was held on 21.05.2024, wherein Shri Jay M Shah, Chartered Accountant appeared before me as authorized representative on behalf of the appellant. It is submitted that due to mismatch in their Aadhar and PAN, there was some issue in generating OTP (One Time Password). Now the issue is resolved and they assured that they will pay

their pending dues of Rs.3.35 lakhs along with Interest and late fees and requested to allow their 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 02.05.2024 against the Order-in-Original dated 23.02.2024. 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)

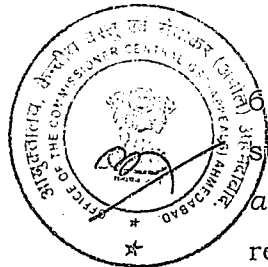
(3)

(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 rejected the revocation of cancellation of registration just with a meager reason that the appellant had not complied to the show cause notice. Here I would like to rely on the judgment dated 24.02.2022 passed by the Hon'ble HighCourt of Gujarat, in C/SCA/18860/2021 in case of M/s Aggarwal Dyeing and Printing Works Vs state of Gujarat and two other(s), wherein it has been held as under:

"19. In the result, all the writ applications deserve to be allowed solely on the ground of violation of principles of natural justice and, accordingly, the writ applications are allowed. We quash and set aside the respective show cause notices of all the writ applications, seeking cancellation of registration as well as the consequential respective impugned orders cancelling registration with liberty to the respondent No. 2 to issue fresh notice with particulars of reasons incorporated with details and thereafter to provide reasonable opportunity of hearing to the writ applicants, and to pass appropriate speaking orders on merits. It is needless to mention that it shall be open for the writ applicants to respond to such notices by filing objections / reply with necessary documents, if relied upon. We clarify that we have not gone into merits of the case."



5.1 The above judgment is applicable in the present case in as much as the order passed by the adjudicating authority has not incorporated the reply of the appellant and the letters of personal hearing issued to the appellant have not been addressed to their correct address, thereby violated the principles of natural justice.

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.

9. During personal hearing the appellant has assured that as they pay the remaining dues along with interest, and late fee. Further, the appellant had stated that the mismatch of Aadhar and PAN card has been sorted out and upon revocation of their GST registration cancellation, they would pay all the dues with late fees. 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.

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".

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

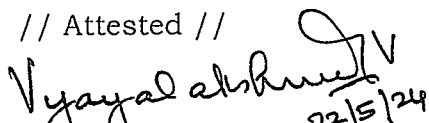
The appeals filed by the appellants stand disposed of in above terms.

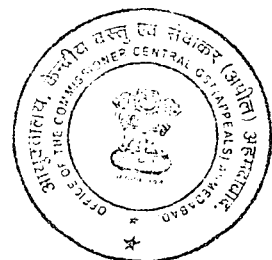

(Adesh Kumar Jain)

Joint Commissioner (Appeals)

Date: .05.2024

// Attested //


(Vijaya Lakshmi V) 22/5/24
Superintendent (Appeals)
Central Tax, Ahmedabad.



By R.P.A.D.

To

M/s. Asharfi Kulfi
Legal Name: Neelam Pavanbhai Gupta
L/14, Surganga Complex,
Ahmedabad, Gujarat 380051

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-VIII, Ahmedabad South.
5. The Superintendent (Systems), CGST Appeals, Ahmedabad.
6. Guard File.
7. P.A. File

