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IN THE COURT OF GOODS AND SERVICES TAX, TRIBUNAL

IN THE CASE OF M/S ABC & CO.

KAROL BAGH, NEW DELHI

ASHOK KUMAR -APPELLANT

Vs.

COMMISSIONER DGST, DELHI – RESPONDANT

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FORM GST APL – 05*[See rule 110(1)]***Appeal to the Appellate Tribunal**

1. GSTIN/ Temporary ID /UIN -07AAAPHXXXXL1ZR
2. Name of the appellant -ABC & Co.
3. Address of the appellant – Karol Bagh
4. Order appealed against- XXXXXXXXXXXX Number-XXXXXX Date-10.03.2025
5. Name and Address of the Authority passing the order appealed against -Joint Commissioner (Appeal)
6. Date of communication of the order appealed against -10.03.2025
7. Name of the representative -CA Renu Sharma
8. Details of the case under dispute: Cancellation of Registration
 - (i) Brief issue of the case under dispute – Registration was cancelled retrospectively for non filing of returns for seven months
 - (ii) Description and classification of goods/ services in dispute NA
 - (iii) Period of dispute NA
 - (iv) Amount under dispute: NA

Description	Central tax	State/ UT tax	Integrated tax	Cess
a) Tax/ Cess				
b) Interest				
c) Penalty				
d) Fees				
e) Other charges				

- (v) Market value of seized goods NA
9. Whether the appellant wishes to be heard in person? Yes
10. Statement of facts - Mentioned in Appeal attached
11. Grounds of appeal- Mentioned in Appeal attached
12. Prayer- Mentioned in Appeal attached
13. Details of demand created, disputed and admitted- NA

Particulars of demand	Particulars		Central tax	State/UT tax	Integrated tax	Cess	Total amount	
	Amount demanded/ rejected >, if any (A)	a) Tax/ Cess					<total >	<total >
		b) Interest					< total >	
		c) Penalty					< total >	

14. Details of payment of admitted amount and pre-deposit:

(a)Details of amount payable : NA

Particulars			Central tax	State/UT tax	Integrated tax	Cess	Total amount	
	a) Admitted amount	Tax/ Cess					<total >	<total >
		Interest					< total >	
		Penalty					<	

							total >	
		Fees					< total >	
		Other charges					< total >	
	b) Pre-deposit [20% of disputed tax/cess but not exceeding Rs.50 crore each in respect of CGST, SGST or cess or not exceeding Rs.100 crore in respect of IGST and Rs.50 crore in respect of cess] ⁴⁹	Tax/ Cess					< total >	

(b) Details of payment of admitted amount and [pre-deposit of 20% of the disputed tax and cess but not exceeding Rs. 50 crore each in respect of CGST, SGST or cess or not exceeding Rs.100 crore in respect of IGST and Rs. 50 crore in respect of cess]
NA

Sr. No.	Description	Tax payable	Paid through Cash/ Credit Ledger	Debit entry no.	Amount of tax paid			
					Integrated tax	Central tax	State/UT tax	CESS
1	2	3	4	5	6	7	8	9
1.	Integrated tax		Cash Ledger					
			Credit Ledger					
2.	Central tax		Cash Ledger					
			Credit					

			Ledger					
3.	State/UT tax		Cash Ledger					
			Credit Ledger					
4.	CESS		Cash Ledger					
			Credit Ledger					

(c) Interest, penalty, late fee and any other amount payable and paid: NA

Sr. No.	Description	Amount payable				Debit entry no.	Amount paid			
		Integrated Tax	Central tax	State/UT tax	CESS		Integrated tax	Central Tax	State/UT tax	CESS
1	2	3	4	5	6	7	8	9	10	11
1.	Interest									
2.	Penalty									
3.	Late fee									
4.	Others (specify)									

15. [Place of supply wise details of the integrated tax paid (admitted amount only) mentioned in the Table in sub-clause (a) of clause 14 (item (a)), if any NA

Place of Supply (Name of State/UT)	Demand	Tax	Interest	Penalty	Other	Total
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1	2	3	4	5	6	7] ⁵¹
	Admitted amount [in the Table in sub-clause (a) of clause 14 (item (a))]					

Verification

I,ASHOK KUMAR , hereby solemnly affirm and declare that the information given hereinabove is true and correct to the best of my knowledge and belief and nothing has been concealed .

Signature

ASHOK KUMAR

PROPRIETOR

SIGNED BEFORE ME

RENU SHARMA
CA

NEW DELHI

10th April 2025

FORM GST APL – 02
[See rule 108(3)]

Acknowledgment for submission of appeal

Name of the Applicant –ASHOK KUMAR

GSTN-07AAAPHXXXXL1ZR

Your appeal has been successfully filed against ARN xxxxxxxxxxxxxx

1. Reference Number- xxxxxxxxxxxx
2. Date of filing – 10.02.2025
3. Time of filing -12:45 P.M.
4. Place of filing – NEW DELHI
5. Name of the person filing the appeal- ASHOK KUMAR
6. Amount of pre-deposit- N.A.
7. Date of acceptance/rejection of appeal- ACCEPTED
8. Date of appearance Date: Time: 10.04.2025
9. Court Number/ Bench Court: Bench: xxxxxxxx

Place: NEW DELHI

Date:10.04.2025

SIGNATURE
NAME- XXXXXX
DESIGNATION

On behalf of Appellate Authority/Appellate Tribunal/Commissioner /
Additional or Joint Commissioner

BEFORE THE GST TRIBUNAL, BENCH NEW DELHI, NEW DELHI

IN THE MATTER OF:

ABC & CO

KAROL BAGH

NEW DELHI

APPELLANT

VS

COMMISSIONER, DGST, DELHI

RESPONDENT

APPLICATION FOR URGENT HEARING

HON'BLE REGISTRAR TO THE TRIBUNAL:

SIR,

THE APPELALNT HAS FILED AN APPEAL AGAINST THE CANCELATION OF REGISTRATION CERTIFICATE BY THE PROPER OFFICER AND REJECTION OF APPEAL BY THE FIRST APPELLATE AUTHORITY. THE APPEAL HAS BEEN FILED TODAY.

AS THE MATTER IS VERY CRITICAL IT IS PRAYED THAT THE MATTER BE PLACED FOR EARLY HEARING BY THE TRIBUNAL

IN THE INTEREST OF JUSTICE.

THANKING YOU.

**FOR ABC & CO
CA RENU SHARMA
COUNSEL FOR THE APPELLANT**

Date- 10.04.25

IN THE GOODS AND SERVICE TAX TRIBUNAL, BENCH NEW
DELHI, NEW DELHI

IN THE MATTER OF:

PROP:ASHOK KUMAR

ABC & CO

KAROL BAGH

NEW DELHI

APPELLANT

VS

COMMISSIONER, DGST, DELHI

RESPONDENT

Appeal under Section 112 of DGST Act read with Rule 110 and 111, of Delhi GST Rules 2017, against the impugned order of the First AA, Zone 15, dated 10.03.25 **retrospectively cancelling the registration certificate of the Appellant without following the due process of Law.**

Disputed Demand: NIL as only cancellation of registration involved. Hence, no pre-deposit is required in terms of Section 107 of the DGST Act.

Hon'ble President of the Tribunal and his Companion Members,

Respectfully sheweth:

1. That feeling aggrieved with the order of the first AA dated 10.03.2025 whereby he cancelled the registration certificate of the Appellant under section 29(2) retrospectively, the Appellant is filing the present appeal before this Hon'ble Tribunal.

2. The appeal has been filed against the order of the first AA dated 10.03.2025 . the order was received on 10.03.2025 and appeal is being filed on 10.04.2025 and therefore the appeal is filed within the limitation period as prescribed under Section 110. the appeal has been signed by the Proprietor of the firm, required fee as per Rule 110 has been affixed and all the annexures to this appeal are true copies of the originals. Power of Attorney in the favour of the arguing counsel is also annexed. No pre-deposit is required as there is no tax demand is involved in this case.

Brief Factual Matrix of the matter

The appellant is a proprietor of a trading firm ABC & CO and sells electronic goods as a distributor of a few Indian companies. The appellant has been registered with the GST department and prior to with the VAT Department since 2014. Till now there has been nothing adverse against the appellant ever and all his returns were filed in time and assessments done without any additional demands on any account including late payment of taxes or non -payment of taxes.

The proper officer issued the show-cause notice dated 25.10.24 whereby the registration of the petitioner was proposed to be cancelled. The grounds mentioned in the show cause notice were more than one - one ground that the returns furnished by the petitioner under Section 39 of the Delhi Goods and Services Tax Act, 2017 were with incomplete details and that there was failure to furnish returns for a continuous period of more than six months for the periods April 2024 to October 2024. Copy of the show cause notice is annexed as **Annexure A**.

The appellant filed a reply as annexed in **Annexure B**, on 07.11.2024 stating the reasons for non-filing of returns or delayed returns on the ground of prolonged sickness of the proprietor wherein he remained hospitalised for more than 4 months (Medical Certificate as **Annexure E** to this appeal petition).

The appellant also filed reply that all the returns under section 39 of the DGST Act were correctly filed and even enclosed a certificate from the legal advisor to this effect which is placed as **Annexure F** to this appeal petition)

The appellant filed all the returns till October 24 on 7th January 2025 as per acknowledgement annexed as **Annexure G** this appeal petition).

Notwithstanding the fact that the appellant had filed returns before

the cancellation order dated 10.01.2025 the proper officer cancelled the registration certificate from 01.10.2017 for which there was no specific show cause notice as per copy of the show cause notice in Annexure A- that is silent as to the date from which registration certificate was proposed to be cancelled by the proper officer. Order is attached in **Annexure C**

THE FAA ALSO DISMISSED THE APPEAL WITHOUT CONSIDERING THE FACTUAL MATRIX PRESENTED BEFORE HIM INCLUDING FILING OF RETURNS TILL OCTOBER 2024 AND A MECHANICAL ORDER WAS PASSED BY THE FIRST AA PUTTING THE APPELLANT INTO SUCH A HARDSHIP WHERE HIS BUSINESS MAY BE ON THE VERGE OF CLOSURE. Order is Attached in **Annexure D**.

Feeling aggrieved with this order, the appellant preferred an appeal under Section 107 of the DGST Act before the Joint Commissioner (Appeal) who vide his orders dated 10.03.25 has dismissed the appeal of the appellant. The first AA also did not properly appreciate the law on this issue and through a mechanical order dismissed the appeal of the appellant and confirmed the order of the first AA.

The appellant is aggrieved against the orders of the lower authorities and hence filing this present appeal before this Hon'ble Tribunal.

The appellant admits that after the returns till October 2024, other returns have not been filed because of cancellation of the registration certificate and if this hon'ble Tribunal restores the registration certificate or allows an opportunity to file all the returns up to date as a condition of restoration of the registration certificate, the

appellant undertakes to file all the returns immediately.

GROUND OF APPEAL

- A.** The authorities below have passed the order in gross violation of principles of natural justice and without appreciating the factual evidence that is on record.
- B.** The proper officer did not specific in the show cause notice regarding cancellation of registration certificate retrospectively which is a condition precedent for taking suo-moto cancellation as has been held by various High Courts including Delhi. High Court. The appellant shall produce judgments at the time of hearing.
- C.** The proper officer has dropped the issue of incomplete returns as per show cause notice as this finds no place in the adjudication order passed by him on 10.01.2025.
- D.** The proper officer failed to appreciate that all the returns till October had been filed on 07.01.2025 before he passed the cancellation order on 10.01.2025.
- E.** The Proper Officer did not take the fact into consideration that Appellant was seriously ill and had submitted Medical Certificate for that also.

- F.** Due to Medical Conditions Appellant requested to Proper Officer to provide time as he could not be able to arrange funds to pay his taxes and due to which delay was made in filing the returns, **in spite of that returns till October 2024 were filed till 07.01.2025 which was the date before passing the order.**
- G.** The appellant could not file returns after that due to cancellation of the registration on 10.01.2025 as it was not possible to go on portal and file on line returns.
- H.** The appellant has annexed as **Annexure H** to this appeal petition all the details of purchase and sales after October 24 including the tax liability incurred as per law. All the suppliers' confirmation are also annexed from whom the materials have been procured along with bill details as Annexure G to this appeal petition. Only in respect of such supplies ITC has been adjusted in the annexed statement in Annexure G against the output tax liability.
- I.** The appellant undertakes to file the returns and pay the net output tax immediately after receiving the favourable order from this Hon'ble Court. The appellant can even issue a post-dated cheque to show his bona fides to deposit the tax amount of Rs. 1,77,171/- which is till March 25 as per statement enclosed.
- J.** The appellant says and submits that non filing of returns is not such a serious offence, as held by various High Court, that can justify the retrospective cancellation of registration certificate

where hundreds of buyers can be affected and input tax credit denied by their respective proper officer under Section 16(1) of the CGST Act read with DGST Act.

There are many relevant High Court Decisions held in the favor of the Appellant which are quoted below for consideration.

1. In Delhi High Court in the Judgement of Prince Chaudhary vs Delhi State Goods And Service Tax & Anr on 5 March, 2025 followed by Riddhi Siddhi Enterprises vs. Commissioner of Goods and Services Tax (CGST), South Delhi & Anr.⁴ it was held that

“para 5. As is manifest from a reading of Section 29, clauses (a) to (e) of Section 29(2) constitute independent limbs on the basis of which a registration may warrant cancellation. While the provision does enable the respondents to cancel that registration with retrospective effect, the mere existence or conferral of that power would not justify a revocation of registration. The order under Section 29(2) must itself reflect the reasons which may have weighed upon the respondents to cancel registration with retrospective effect. Given the deleterious consequences which would ensue and accompany a retrospective cancellation makes it all the more vital that the order be reasoned and demonstrative of due application of mind. It is also necessary to observe that the mere existence of such a power would not in itself be sufficient to sustain its invocation. What we seek to emphasise is that the power to cancel retrospectively can neither be robotic nor routinely applied unless circumstances so warrant. When tested on the aforesaid precepts it becomes ex facie evident that the impugned order of cancellation cannot be sustained.”

“para 9. In terms of Section 29(2) of the Central Goods and Services Tax Act, 2017, the proper officer may cancel the GST registration of a person from such date including any retrospective date, as he may deem fit if the circumstances set out in the said sub-section are satisfied. The registration cannot be cancelled with retrospective effect mechanically. It can be cancelled only if the proper officer deems it fit to do so. Such satisfaction cannot be subjective but must be based on some objective criteria. Merely, because a taxpayer has not filed the returns for some period does not mean that the taxpayer's registration is required to be cancelled with retrospective date also covering the period when the returns were filed and the taxpayer was compliant.

Para 10. It is important to note that, according to the respondent, one of the consequences for cancelling a tax payer's registration with retrospective effect is that the taxpayer's customers are denied the input tax credit availed in respect of the supplies made by the tax payer during such period. Although, we do not consider it apposite to examine this aspect but assuming that the respondent's contention in this regard is correct, it would follow that the proper officer is also required to consider this aspect while passing any order for cancellation of GST registration with retrospective effect. Thus, a taxpayer's registration can be cancelled with retrospective effect only where such consequences are intended and are warranted.

Para 11. The show cause notice does not even state that the registration is liable to be cancelled from a retrospective date.”

2. [Shree Balaji Transport v. Commr. (CGST), 2024 SCC OnLine Del 89, decided on 08-01-2024] ...

“The registration cannot be cancelled with retrospective effect mechanically. It can be cancelled only if the proper officer deems it fit do so. Such satisfaction cannot be

subjective but must be based on some objective criteria.”

...

Delhi High Court: In a petition challenging the show cause notice dated 08-11-2022, order of cancellation dated 07-02-2023 and order in appeal dated 24-08-2023, the Division Bench of Sanjeev Sachdeva and Ravinder Dudeja, JJ., opined that the registration could not be cancelled with the retrospective effect mechanically and it could be cancelled, only if the proper officer deemed it fit to do so. Further, such satisfaction could not be subjective but must be based on the objective criteria.*

The Court opined that, “merely, because a taxpayer has not filed the returns for some period does not mean that the taxpayer’s registration is required to be cancelled with retrospective date also covering the period when the returns were filed, and the taxpayer was compliant.”

3. Aryan Timber Store Versus Sales Tax Officer

The Delhi High court has held that merely, because a taxpayer has not filed the returns for some period does not mean that the taxpayer’s registration is required to be cancelled with a retrospective date also covering the period when the returns were filed and the taxpayer was compliant.

The court held that once the registration stood cancelled, there was no cause for the petitioner to file any returns. Accordingly, the cancellation of the registration on the ground that petitioner has failed to file returns is not sustainable.

4. Mohana Blue Metal Versus the Assistant Commissioner

The Madras High Court has held that the petitioner has been continuing his business operations and due to the ill

health of the Managing Partner of the petitioner-Firm, who was incharge of filing the GST returns of the petitioner, the petitioner-Firm was not in a position to file GST Returns and in the light of the judgments relied on by the learned counsel for the petitioner, this court, in the interest of justice, is inclined to allow this Writ Petition.

5. SHRI BANKEY BIHARI TRADING COMPANY V PRINCIPAL COMMISSIONER OF DEPARTMENT OF TRADE AND TAXES AND ANFR

When looking at the legal framework, the court referred to Section 29(2) of the Act. It highlighted that cancelling a registration, particularly with retrospective effect, is required to be justified objectively via the proper officer.

The court highlighted that the reason for such cancellation cannot be purely subjective and must adhere to particular criteria. It was noted that simply failing to file GST returns does not automatically justify retrospective cancellation, specifically without due process and fair reasons being provided to the taxpayer.

Also, the ruling concerned the implications of the retrospective cancellation on the taxpayer's claim of ITC and the importance of the fair application of the natural justice principles.

It shows that the decisions that affect the assessee's substantial rights like retrospective cancellation that impacts the former transactions and adherence, should be kept via clear and effective causes.

6. Akash Garments India Pvt Ltd Vs Union of India & Anr (Delhi High Court) Delhi High Court held

that cancellation of GST registration with retrospective effect merely because the taxpayer has not filed returns for some period not justified. Court directed to cancel registration from date of issuance of SCN.

7. MANISHA GUPTA V UNION OF INDIA

- i) *Section 29(2) of the Central Goods and Services Tax Act, 2017 scrutinized by the court, highlights that retrospective cancellation needs the proper officer's satisfaction established on objective criteria*
 - ii) *The judgment shows that the non-filing of returns solely does not prove the retrospective cancellation; it needs to align with the compliance status of the assessee at the time of questioning.*
 - iii) *Potential repercussions for the taxpayer's customers are been considered by the court and the requirement of the proper officer to acknowledge these results before the retrospective cancellation.*
-

Prayers

In view of the above factual and legal matrix, it is more than clear that the orders of the lower authorities suffer from:

1. **Lack of Proper Justification:** The show cause notice (SCN) and cancellation order did not provide concrete reasons or supporting evidence nor it specified the date of cancellation from the back date,
2. **Absence of Prior Notice:** The SCN did not explicitly state the intent to cancel registration retrospectively. This left the petitioner without a fair opportunity to contest it. And this is a mandatory requirement laid down by all the High Courts on this issue.

3. **Failure to Consider Filed Returns:** The petitioner contended that returns had been filed after the show cause notice and before the cancellation order, contradicting the retrospective cancellation.
4. **Arbitrary Exercise of Power:** The petitioner highlighted previous court rulings where retrospective cancellations were deemed invalid if not backed by proper reasoning and evidence.

In view of the above the appellant prays that the order dated 10.01.2025 passed by the respondent may be quashed and the proper officer be directed to restore the registration certificate from 1.10.2017 subject to appellant filing of returns and verification thereof by the proper officer.

The appellant undertakes to file all the pending returns pre-cancellation or post cancellation within a period of one week from the date of favourable order that may be passed by this Hon'ble Tribunal in the case of the appellant.

It is prayed accordingly.

For ABC & CO
Ashok Kumar
Prop.

Through
CA RENU SHARMA
COUNSEL FOR THE APPELLANT

VERIFICATION

Verified on this day of 10th April 2025 that the contents of the above appeal petition and true to the best of my knowledge and belief and nothing material has been concealed therefrom.

Appellant.

BEFORE THE ASSISTANT COMMISSIONER, ZONE 15, DGST DEPTT,
NEW DELHI

DIN NO. XXXXXXXX

DATED 25.10.24

**SHOW CAUSE NOTICE FOR CANCELLATION OF YOUR
REGISTRATION CERTIFICATE UNDER SECTION 29(2) OF THE DGST
ACT**

ABC & CO
KAROL BAGH
NEW DELHI

GSTIN -07AAAPHXXXXL1ZR

WHEREAS IT HAS BEEN NOTICED THAT YOU HAVE NOT FILED RETURNS FOR THE LAST SEVEN MONTHS AND ALSO THE RETURNS FILED BY YOU UNDER SECTION 39 ARE SEEMINGLY INCOMPLETE AND THERE ARE NO FULL DETAILED REPORTS AS PER LAW.

AS PER PROVISIONS OF SECTION 29(2) OF THE DGST ACT 2017 YOU ARE REQUIRED TO SHOW CAUSE AS TO WHY YOUR REGISTRATION BE NOT CANCELLED FOR VIOLATION OF THE LAW?

YOUR REPLY SHOULD REACH THE UNDERSIGNED BY 5.11.2024

FAILING WHICH IT WILL BE PRESUMED YOU HAVE NOTHING TO SAY
IN THE MATTER AND FURTEHR ACTION AS PER LAW WILL BE
INITIATED WITHOUT ANY FURTHER NOTICE.

DIGITAL SIGNATURE
ASSISTANT COMMISSIONER
ZONE 15

**IN THE COURT OF ASSISTANT COMMISSIONER, ZONE 15, DGST
DEPTT, NEW DELHI**

**IN THE MATTER OF
ABC& CO.
KAROL BAGH, NEW DELHI
GSTN 07AAAPHXXXXL1ZR**

SIR,

WITH REFERENCE TO YOUR SHOW CAUSE NOTICE DATED 25.10.2024 I
WOULD LIKE TO SUBMIT AS UNDER:

1. THAT THE RETURNS FILED UNDER SECTION 39 AS ALLEGED IN YOUR
SHOW CAUSE NOTICE ARE COMPLETE IN ALL RESPECTS EXCEPT IN
FEW CASES, WE DID NOT WRITE NIL WHICH IS OF NO
CONSEQUENCES. WE HAVE SHOWN OUR RETURNS TO OUR LEGAL
ADVISOR WHO HAS SAID THE RETURNS ARE COMPLETE AS PER LAW.
2. REGARDING NOT FILING OF RETUNRS FOR SEVEN MONTHS DUE TO
MYSELF, BEING THE PROPRIETOR, HAVE BEEN HOSPITALISED WITH
A HEART AILMENT (MEDICAL CERTIFICATE ENCLOSED AS ANNEXURE
A) THERE WAS NO ONE TO LOOK AFTER THE BUSINESS AND

COMMERCIAL LEGAL AFFAIRS AND HENCE THERE WAS A DELAY IN FILING THE RETURNS. HOWEVER, I AM IN THE PROCESS OF FILING THESE RETURNS WITHIN 10 DAYS.

3. HENCE I REQUEST THAT THE SHOW CAUSE NOTICE BE DROPPED AS I WOULD SHOW THE COMPLIANCE OF FILING THE RETURNS WITHIN 10 DAYS FROM THE DATE OF FILING THIS REPLY WITH TAX AND INTEREST PAYMENTS UP TO DATE AS PER LAW.

IT IS PRAYED ACCORDINGLY.

ASHOK KUMAR
PROP
ABC AND CO.

DATED 7TH NOVEMBER 2024

BEFORE THE FIRST ASSISTANT COMMISSIONER, DGST, GST
DEPTT, NEW DELHI

DIN NO....XXXXXXXXXXXX. DATED

ORDER IN ORIGINAL

IN THE MATTER OF

ABC& CO

KAROL BAGH

NEW DELHI

GSTIN NO. 07AAAPHXXXXL1ZR

DIN NO..XXXXXXXXXX.

DATED. 10.01.2025

Whereas the taxpayer was issued a show cause notice dated 25.10.24 asking as to why his registration certificate be not cancelled for violation of the provisions of section 29(2) OF THE DGST ACT.

Whereas the taxpayer has filed the reply on 7th November 2024 which has been considered by the under signed.

The tax payer was called for personal hearing on 18.11.24 but he did not appear, he was again. Called on 10.12.24 but he failed to appear on the ground that his lawyer was not available and finally he was failed on 28.12.24 but he failed to appear.

Nothing has been brought on record to show the averments made in his reply dated 7th November 24 were fulfilled.

Hence, I hereby cancel registration no. GSTIN 07AAPPH3529L1ZR Effective 1st October 2017 for the poor conduct of the appellant and gross violation of the provisions of the Act.

The copy of the order be served on the tax payer on his email and on portal.

ASSISTANT COMMISSIONER
ZONE 15
DGST DEPTT
DIGITALLY SIGNED

BEFORE THE JOINT COMMISSIONER, DGST, GST DEPTT, NEW
DELHI

IN THE MATTER OF: ABC & CO
KAROL BAGH
NEW DELHI

GSTIN NO. 07AAPH3529L1ZR

DINNO.XXXXXXXXXX

DATED 10.03.2025

The Taxpayer has filed an appeal against an order passed by the Assistant Commissioner, Zone 15 whereby he has cancelled the registration certificate of the taxpayer under the provisions of Section 29(2)(a) read with Section 29(2)(c) of DGST Act 2017,

Heard Ms Renu Sharma CA at length.

She has stated that the show cause notice dated 25th November 2024 proceeded on two grounds – firstly it was stated in that SCN that the returns filed the dealer under section 39 of the DGST Act were incomplete and secondly that the returns for continuous period of six months as on 25th November 2024 had not been filed by the taxpayer.

She has also brought on record the reply filed to the show cause notice along with a certificate from Chartered Accountant that

returns were filed correctly and there is no material deficiency. Further she has brought on record that returns up to October 24 had been filed by the taxpayer on 7.01.2025 and copy of the acknowledgements has been placed on record.

She has also brought on record the total tax liability as on 1.03.2025 amounting to Rs. 1,77,171/- that is still payable by the tax payer including interest.

She has further stated that once the registration certificate is restored, the payment of tax shall be made immediately as in the absence of restoration of registration certificate returns cannot be filed at all.

I have perused the ward records and the documents filed by the counsel for the appellant. I do not find any merit as the default date is not filing the returns for a period of six months and anything done after the show cause notice merits no concern or interference. The judgments quoted by her in the case of **Prince Chaudhary vs Delhi State Goods and Service Tax & Anr on 5 March, 2025 and others are** contextually different and cannot get the benefit in law.

In view of the same the appeal filed by the tax payer has no merit and is hereby dismissed with the directions to the proper officer to recover the tax with interest and penalty if any as per due process of law.

DIGITALLY SIGNED.
JOINT COMMISSIONER (APPEAL)

Delhi High Court – Orders

1. Prince Chaudhary vs Delhi State Goods And Service Tax & Anr on 5 March, 2025

Author: Yashwant Varma

Bench: Yashwant Varma

\$~54

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 4692/2024

PRINCE CHAUDHARY

.....Petitioner

Through:

Mr. Jitin Singhal and Mr.
Saurab Grover, Advs.

versus

DELHI STATE GOODS AND SERVICE TAX & ANR.

.....Respondents

Through: Mr. K. G. Gopalakirshnan,
Adv.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE HARISH VAIDYANATHAN

SHANKAR

ORDER

%

05.03.2025

CM APPL. 13268/2025 (E.H.)

Bearing in mind the disclosures made in the application, it is allowed.

The application is disposed of.

W.P.(C) 4692/2024

1. The writ petitioner assails the validity of the final order dated 02 November 2021 in terms of which its Goods and Services Tax¹ registration came to be cancelled with retrospective effect from 23 October 2020.

2. It becomes pertinent to note that the proceedings had come to be initiated pursuant to a Show Cause Notice² dated 25 October 2021. That notice embodied no intent or disclosure of the respondents GST This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 06/03/2025 at 22:02:59 contemplating cancellation from a

retrospective date.

3. We had in this regard and bearing in mind the power which Section 29 of the Central Goods and Services Tax Act, 2017³ confers upon the respondents to cancel registration from a retrospective date, in [Riddhi Siddhi Enterprises vs. Commissioner of Goods and Services Tax \(CGST\), South Delhi & Anr.](#)⁴ held as follows:

"5. As is manifest from a reading of Section 29, clauses (a) to (e) of Section 29(2) constitute independent limbs on the basis of which a registration may warrant cancellation. While the provision does enable the respondents to cancel that registration with retrospective effect, the mere existence or conferral of that power would not justify a revocation of registration. The order under Section 29(2) must itself reflect the reasons which may have weighed upon the respondents to cancel registration with retrospective effect. Given the deleterious consequences which would ensue and accompany a retroactive cancellation makes it all the more vital that the order be reasoned and demonstrative of due application of mind. It is also necessary to observe that the mere existence of such a power would not in itself be sufficient to sustain its invocation. What we seek to emphasise is that the power to cancel retrospectively can neither be robotic nor routinely applied unless circumstances so warrant. When tested on the aforesaid precepts it becomes ex facie evident that the impugned order of cancellation cannot be sustained.

6. We note that while dealing with the right of the respondents to cancel GST registration with retrospective effect and the manner in which such power should be exercised in accordance with the statutory scheme was an issue which was noticed in *Ramesh Chander vs Assistant Commissioner of Goods and Services Tax, Dwarka Division, CGST Delhi & Anr.*⁴ The Court in *Ramesh Chander* taking note of the contours of Section 29 had held:-

"1. The petitioner impugns order in appeal dated 29.12.2023, whereby the appeal filed by the petitioner has been dismissed solely on the ground of limitation. Petitioner had filed the appeal impugning order dated 13.07.2022 whereby the GST registration of the petitioner was cancelled retrospectively with effect from 01.07.2017. Petitioner also impugns Show Cause SCN Act W.P.C 8061/2024 dated 25 September 2024 This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 06/03/2025 at 22:02:59 Notice dated 07.04.2022.

2. Vide impugned Show Cause Notice dated 07.04.2022, petitioner was called upon to show cause as to why the registration be not cancelled for the following reasons:-

"Any Taxpayer other than composition taxpayer has not filed returns for a continuous period of six months"

3. Petitioner was in the business of services involving repair, alterations, additions, replacements, renovation, maintenance or remodelling of the building covered above, General construction services of harbours, waterways, dams, water mains and lines, irrigation and other waterworks, General construction services of long-distance underground/ overland/ submarine pipelines, communication and electric power lines (cables); pumping stations and related works; transformer stations and related works, General construction services of local water & sewage pipelines, electricity and communication cables & related

works, Installation, assembly and erection services of other prefabricated structures and constructions and possessed a GST registration.

4. A show cause notice was issued to the petitioner on 07.04.2022 Though the notice does not specify any cogent reason, there is an observation in the notice stating failure to furnish returns for a continuous period of six months. The show cause notice requires the petitioner to appear before the undersigned i.e. authority issuing the notice. Notice does not give the name of the officer or place or time where the petitioner has to appear.

5. Further the order dated 13.07.2022 passed on the show cause notice does not give any reasons for cancellation of the registration. It, however, states that the registration is liable to be cancelled for the following reason "whereas no reply to notice to show cause has been submitted". However, the said order in itself is contradictory, the order states "reference to your reply dated 16.04.2022 in response to the notice to show cause dated 07.04.2022" and the reason stated for cancellation is "whereas no reply to notice to show cause has been submitted". The order further states that effective date of cancellation of registration is 01.07.2017 i.e. retrospective date.

6. Neither the show cause notice, nor the order spell out the reasons for retrospective cancellation. In fact, in our view, order dated 13.07.2022 does not qualify as an order of cancellation of registration.

7. As per the petitioner, the said order reflected that the GST of This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 06/03/2025 at 22:02:59 the Petitioner stands cancelled from 01.07.2017 even though returns thereafter have been filed by the Petitioner.

8. We notice that the show cause notice as well as the impugned order of cancellation, are themselves vitiated on account of lack of reason and clarity. The appeal has been dismissed solely on the ground of limitation. Since the very foundation of entire proceedings i.e. show cause notice and the order of cancellation are vitiated, we are of the view that no purpose would be served in relegating the petitioner to the stage of an appeal.

9. In terms of [Section 29\(2\)](#) of the Central Goods and Services Tax Act, 2017, the proper officer may cancel the GST registration of a person from such date including any retrospective date, as he may deem fit if the circumstances set out in the said sub-section are satisfied. The registration cannot be cancelled with retrospective effect mechanically. It can be cancelled only if the proper officer deems it fit to do so. Such satisfaction cannot be subjective but must be based on some objective criteria. Merely, because a taxpayer has not filed the returns for some period does not mean that the taxpayer's registration is required to be cancelled with retrospective date also covering the period when the returns were filed and the taxpayer was compliant.

10. It is important to note that, according to the respondent, one of the consequences for cancelling a tax payer's registration with retrospective effect is that the taxpayer's customers are denied the input tax credit availed in respect of the supplies made by the tax payer during such period. Although, we do not consider it apposite to examine this aspect but assuming that the respondent's contention in this regard is correct, it would follow that the proper officer is also required to consider this aspect while passing any order for cancellation of GST

registration with retrospective effect. Thus, a taxpayer's registration can be cancelled with retrospective effect only where such consequences are intended and are warranted.

11. The show cause notice does not even state that the registration is liable to be cancelled from a retrospective date.

12. The petition is allowed. The impugned show cause notice dated 07.04.2022, order of cancellation dated 13.07.2022 and the order in appeal dated 29.12.2023 are accordingly set aside. GST registration of the petitioner is restored, subject to petitioner filing requisite returns upto date.

13. It is clarified that since the petitioner could not have filed the return after the GST registration was suspended, there shall be no liability to pay any penalty or fine for delayed filing.

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 06/03/2025 at 22:03:00 However, this would only apply in case petitioner files an affidavit of undertaking that petitioner has not carried out any business or raised invoices or taken any Input Tax Credit after the registration was suspended with effect from 07.04.2022 i.e., the date of suspension of the registration.

14. Respondent would be at liberty to initiate appropriate proceedings in accordance with law after giving a proper show cause notice containing complete details, if so advised. Further this order would not preclude the respondent from initiating any steps in accordance with law, if it is found that the petitioner had violated any provisions of the Act.

15. Petition is disposed of in the above terms."

7. We further take note of the judgment in [Delhi Polymers vs Commissioner, Trade and Taxes & Anr.5](#) wherein the following was observed:-

"1. Petitioner has filed the appeal impugning order of cancellation of registration dated 15.12.2021 whereby the GST registration of the Petitioner has been cancelled retrospectively with effect from 01.07.2017. Petitioner also impugns Show Cause Notice dated 04.09.2021.

2. Vide Show Cause Notice dated 04.09.2021, petitioner was called upon to show cause as to why the registration be not cancelled for the following reason:-

"Collects any amount representing the tax but fails to pay the same to the account of the Central/State Government beyond a period of three months from the date on which such payment becomes due"

3. Petitioner was engaged in the business of Sanitary ware Products & Accessories i.e., Baths, Shower, Washbasins, Seats and Cover etc. and possessed GST registration.

4. Show Cause Notice dated 04.09.2021 was issued to the Petitioner seeking to cancel its registration. However, the Show Cause Notice also does not put the petitioner to notice that the registration is liable to be cancelled retrospectively. Accordingly, the petitioner had no opportunity to even object to the retrospective cancellation of the registration.

5. Further, the impugned order dated 15.12.2021 passed on the Show Cause Notice dated 04.09.2021 does not give any reasons for cancellation. It, however, states that the registration is liable to be cancelled for the following reason "whereas no reply to the show cause notice has been submitted". However, the

said order in itself is contradictory. The order states "reference to your reply dated 15.12.2021 in response to the notice to show cause dated 04.09.2021" and the reason stated This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 06/03/2025 at 22:03:00 for the cancellation is "whereas no reply to notice show cause has been submitted". The order further states that effective date of cancellation of registration is 01.07.2017 i.e., a retrospective date.

6. Neither the show cause notice, nor the order spell out the reasons for retrospective cancellation. In fact, in our view, order dated 15.12.2021 does not qualify as an order of cancellation of registration. On one hand, it states that the registration is liable to be cancelled and on the other, in the column at the bottom there are no dues stated to be due against the petitioner and the table shows nil demand.

7. Learned Counsel for the Petitioner submits that the said order reflected that the GST registration of petitioner stands cancelled from 01.07.2017 even though returns thereafter have been filed by the Petitioner.

8. He further submits that the petitioner is no longer interested in continuing the business and the business has been discontinued.

9. In terms of [Section 29\(2\)](#) of the Act, the proper officer may cancel the GST registration of a person from such date including any retrospective date, as he may deem fit if the circumstances set out in the said sub-section are satisfied. Registration cannot be cancelled with retrospective effect mechanically. It can be cancelled only if the proper officer deems it fit to do so. Such satisfaction cannot be subjective but must be based on some objective criteria. Merely, because a taxpayer has not filed the returns for some period does not mean that the taxpayer's registration is required to be cancelled with retrospective date also covering the period when the returns were filed and the taxpayer was compliant.

10. It is important to note that, according to the respondent, one of the consequences for cancelling a tax payer's registration with retrospective effect is that the taxpayer's customers are denied the input tax credit availed in respect of the supplies made by the tax payer during such period. Although, we do not consider it apposite to examine this aspect but assuming that the respondent's contention is required to consider this aspect while passing any order for cancellation of GST registration with retrospective effect. Thus, a taxpayer's registration can be cancelled with retrospective effect only where such consequences are intended and are warranted.

11. It may be further noted that both the Petitioners and the department want cancellation of the GST registration of the Petitioner, though for a different reason.

12. In view of the fact that Petitioner does not seek to carry on This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 06/03/2025 at 22:03:00 business or continue the registration, the impugned order dated 15.12.2021 is modified to the limited extent that registration shall now be treated as cancelled with effect from 04.09.2021 i.e., the date when the Show Cause Notice was issued.

13. It is clarified that Respondents are also not precluded from taking any steps

for recovery of any tax, penalty or interest that may be due in respect of the subject firm in accordance with law.

14. Petition is accordingly disposed of in the above terms."

8. In view of the aforesaid and in light of an abject failure on the part of the authority to assign even rudimentary reasons for a retroactive cancellation, we find ourselves unable to sustain the order impugned."

4. In view of the above and when the impugned order is tested on the aforementioned precepts, it becomes apparent that absence of reasons in the original SCN in support of a proposed retrospective cancellation as well as a failure to place the petitioner on prior notice of such an intent clearly invalidates the impugned action. We are thus of the considered opinion that the writ petition is entitled to succeed on this short ground alone.

5. We accordingly allow the writ petition by modifying the impugned order and providing that the cancellation of the petitioner's GST registration shall come into effect from the date of the SCN i.e. 25 October 2021.

6. The stipulation in the impugned order of cancellation to come into effect from 23 October 2020 is consequently quashed.

7. The date of 01 April 2024 shall stand cancelled.

YASHWANT VARMA, J.

HARISH VAIDYANATHAN SHANKAR, J.

MARCH 05, 2025/DR This is a digitally signed order.

Delhi High Court Orders

2. Shree Balaji Transport vs The Commissioner Of Central Tax ...

on 8 January, 2024

Author: Sanjeev Sachdeva

Bench: Sanjeev Sachdeva

IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of

decision

Decision 08.01.2024

+ W.P.(C) 15377/2023 & CM APPL. 61691/2023

SHREE

BALAJI TRANSPORT

.....Petitioner

versus

THE COMMISSIONER OF

CENTRAL TAX APPEALS -I & ANR.

Advocates who appeared in this case:

For the Petitioner: Mr. Sahil Mongia and Mr.

For the Respondents:

Respondent Ms. Arunima Dwivedi, Senior CBIC with Ms. Pinky Pawan Pathak,
Advocates.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner impugns order dated 24.08.2023, whereby the appeal filed by the petitioner has been dismissed solely on the ground of limitation. Petitioner had filed the appeal impugning order dated 07.02.2023 whereby the GST registration of the petitioner was cancelled retrospectively with effect from 31.03.2022.

2. Petitioner was in the business of transport and possessed a GST registration. A show cause notice was issued to the petitioner on 08.11.2022 calling alling upon the petitioner to show cause as to why the registration be not cancelled for

the reason "returns furnished by you under Section 39 of the Central Goods and Services Tax Act, 2017 2017".

3. Though the notice does not specify any cogent reason, there is an observation in the notice stating "Failure to furnish returns for a continuous period of six months". The show cause notice

requires the petitioner to appear before the undersigned i.e. authority issuing the notice. Notice does not give the name of the officer or place where the petitioner has to appear and a merely states "Jurisdiction officer".

4. Further the order dated 07.02.2023 passed on the show cause notice merely refers to the reply filed by the petitioner on 09.12.2022 and does not give any reasons for cancellation of the registration. It, however, states that the registration is liable to be cancelled for the following reason "file all returns and pay all dues, if any". The order further states that effective date of cancellation of registration is 31.03.2022 i.e. a retrospective date.

5. Neither the show cause notice nor the order spell out the reasons for cancellation. In fact, in our view, order dated 07.02.2023 does not qualify as an order of cancellation of registration. On the one hand, it states that the registration is liable to be cancelled and the reason given is "file all returns and pays all dues, if any" on the other, in the column at the bottom there are no dues stated to be due against the petitioner and the table shows nil demand.

6. As per the petitioner, petitioner could not furnish returns as petitioner had suffered a severe setback in the business due to lockdown and the business had completely stopped and no income was even generated during the period.

7. We notice that the show cause notice as well as the impugned order of cancellation, are themselves vitiated on account of lack of reason and clarity. The appeal has been dismissed solely on the ground of limitation. Since the very foundation of entire proceedings i.e. show cause notice and the order of cancellation are vitiated, we are of the view that no purpose would be served in relegating the petitioner to the stage of an appeal.

8. In terms of Section 29(2) of the Central Goods and Services Tax Act, 2017, the proper officer may cancel the GST registration of a person from such date including any retrospective date, as he may deem fit if the circumstances set out in the said sub-section are satisfied. The registration cannot be cancelled with retrospective effect mechanically. It can be cancelled only if the proper officer deems it fit to do so. Such satisfaction cannot be subjective but must be based on some objective criteria. Merely, because a taxpayer has not filed the returns for some period does not mean that the taxpayer's registration is required to be cancelled with retrospective date also covering the period when the returns were filed and the taxpayer was compliant.

9. It is important to note that, according to the respondent, one of the consequences for cancelling a tax payer's registration with retrospective effect is that the taxpayer's customers are denied the input tax credit availed in respect of the supplies made by the tax payer during such period. Although, we do not consider it apposite to examine this aspect but assuming that that the respondent's contention in this regard is correct, it would follow that the proper officer is also required to consider this aspect while passing any order for cancellation of GST registration with retrospective effect. Thus, a taxpayer's registration can be cancelled with retrospective effect only where such consequences are intended and are warranted.

10. The show cause notice does not even state that the registration is liable to be cancelled from a retrospective date.

11. The petition is allowed. The impugned show cause notice dated 08.11.2022, order of cancellation dated 07.02.2023 and the order in appeal dated 24.08.2023 are accordingly set aside. GST registration of the petitioner is restored. Petitioner shall now file the returns for the relevant period up to date within a period of two weeks from today.

12. However, respondent would be at liberty to initiate appropriate proceedings in accordance with law after giving a proper show cause notice containing complete details, if so advised. Further this order would not preclude the respondent from initiating any steps in accordance with law, if it is found that the petitioner had violated any provisions of the Act.

SANJEEV SACHDEVA, J RAVINDER DUDEJA DUDEJA, J January 08,, 2024/vp
Shree Balaji Transport vs The Commissioner Of Central Tax ... on 8 January, 2024

DELHI HIGH COURT ORDERS

3. Aryan Timber Store Through Its Prop ... vs Sales Tax Officer

Class II/ Avato Ward 62 ... on 18 January, 2024

Author: Sanjeev Sachdeva

Bench: Sanjeev Sachdeva

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision

decision: 18.01.2024

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W.P.(C) 628/2024

628 & CM APPLS 2749/2024

, 2748/2024

ARYAN TIMBER STORE THROUGH ITS PROP VIRENDER
KUMAR

.... Petitioner

versus

SALES TAX OFFICER CLASS II/ AVATO WARD 62
DEPARTMENT OF TRADE AND TAXES IP ESTATE NEW
DELHI

.... Respondent

Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Gaurav Gupta, Advocate.

For the Respondents:

Respondent Mr. Rajeev Aggarwal, ASC with Advocate.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 09.07.2022, whereby the GST registration of the petitioner was cancelled retrospectively with effect from 01.07.2017 7.2017 and also impugns the Show Cause Notice dated 15.07.2021.
2. It is submitted that petitioner discontinued his business w.e.f 31.03.2019 and applied for Aryan Timber Store Through Its Prop ... vs Sales Tax Officer Class Ii/ Avato Ward 62 ... on 18 January, 2024 cancellation on 06.05.2019. Vide Show Cause Notice dated 15.07.2021, petitioner was called upon to show cause as to why the registration be not cancelled for the following reasons: -
"Any Taxpayer other than composition taxpayer has not filed returns for a continuous period of six months"
3. We may note that though the Show Cause Notice states that petitioner failed to file the returns for a continuous period of six months.
4. The impugned order also seeks to cancel the registration with effect from 01.07. 2017.. There is no material on record to show as to why the registration is sought to be cancelled retrospectively.
5. Further, the Show Cause Notice dated 15.07.2021 .2021 also does not put the petitioner to notice that the registration is liable to be cancelled retrospectively. Accordingly, the petitioner had no opportunity to even object to the retrospective cancellation of the registration.
6. Records clearly demonstrates that petitioner had submitted an application seeking cancellation of the GST registration on 06.05.2019 and thereafter, vide order dated 09.07.2022, the registration of the petitioner had been cancelled. Once the registration stood cancelled, there was no cause for the petitioner to file any returns. Accordingly, the cancellation of the registration on the ground that petitioner has failed to file returns is not sustainable. Further, we note that the cancellation of registration has been done with retrospective effect.
7. In terms of Section 29(2) of the Central Goods and Services Tax Act, 2017, the proper officer may cancel the GST registration of a person from such date including any retrospective date, as he may deem fit if these circumstances set out in the said sub sub-section are satisfied. Registration cannot be cancelled with retrospective effect mechanically. It can be cancelled only if the proper officer deems it fit to do so. Such satisfaction cannot be subjective but must be based on some objective criteria. Merely, because a taxpayer has not filed the returns for some period does not mean that the taxpayer's registration is required to be cancelled with retrospective date also covering the period when the returns were filed and the taxpayer was compliant.
8. It is important to note that, according to the respondent, one of the consequences for cancelling a tax payer's registration with retrospective effect is that the taxpayer's customers are denied the input tax credit availed in respect of the supplies made by the tax payer during such period. Although, we do not consider it apposite to examine this aspect but assuming that the respondent's contention in this regard is correct, it would follow that the proper officer is also required to consider this aspect while passing any order for cancellation of GST registration with retrospective effect. Thus, a taxpayer's registration can be cancelled with retrospective effect only where such consequences are intended and are warranted.
9. In view of the above facts and circumstances, the order of cancellation is

modified to the extent that the same shall operate with effect from 06.0 .05.2019, .2019, i.e., the date when petitioner first applied for cancellation of registration. It is clarified that respondents are not precluded from taking any steps for recovery of any tax, penalty or interest that may be due from the petitioner in accordance with law.

10.The petition is accordingly disposed of in the above terms.

SANJEEV SACHDEVA, J RAVINDER DUDEJA DUDEJA, J January 18,, 2024/sk
Aryan Timber Store Through Its Prop ... vs Sales Tax Officer Class li/ Avato Ward
62 ... on 18 January, 2024

Madras High Court

4. Mohana Blue Metal vs The Assistant Commissioner on 14

Author: Krishnan Ramasamy
Bench: Krishnan Ramasamy

W.P.No.32728 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.12.2023
CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.No.32728 of 2023
&
WMP.No.32340 of 2023

Mohana Blue Metal ... Petitioner

Vs.

The Assistant Commissioner,
Vanagaram Assessment Circle,
No.4/109, 3rd Floor, Integrated
Commercial Tax Building,
Trunk Road, Chennai-Bengaluru
High Ways, Varadharajapuram,
Thiruvallur District ... Respondent

PRAYER:

Writ Petition filed under [Article 226](#) of the Constitution of India praying for issuance of Writ of Certiorari to call for the records of the respondent in Reference No.ZA3301230223169, dated 05.01.2023 and quash the same as arbitrary, illegal.

For Petitioner: Mrs.V. Vijayalakshmi
 For Respondents: Mrs. E. Ranganayaki,
 AGP (Taxes)

<https://www.mhc.tn.gov.in/judis>

W.P.No.32728 of 2023

ORDER

This Writ Petition is filed challenging the order of the respondent dated 05.01.2023, whereby, the petitioner's GST Registration number has been cancelled.

2. The case of the petitioner is that they are engaged in the business of Trading Blue Metal and other allied construction services. The respondent issued a show cause notice dated 26.12.2022 proposing for cancellation of GST Registration for non filing of monthly returns and subsequently, by the impugned order dated 05.01.2023 cancelled the GST Registration of the petitioner on the ground that the petitioner/assessee did not respond to the earlier show cause notice.

3. Mrs.V.Vijayalakshmi, learned counsel appearing for the petitioner would submit that due to ill health of the Managing partner of the petitioner-Firm, namely, Mr.R.Mohan Raj, who was in charge of filing GST returns on behalf of the petitioner-Firm, the petitioner was not able to file GST 2 of 11 <https://www.mhc.tn.gov.in/judis> returns for the months of July 2022 to December 2022. Therefore, she would submit that non filing of GST returns is neither wilful, nor wanton, but on account of bonafide reason as stated above. She would further submit that the impugned cancellation of GST Registration of the petitioner was passed without giving any reasonable opportunity of being heard, hence, the impugned order suffers from gross violation of the principles of natural justice.

3.1. The learned counsel appearing for the petitioners further brought to the notice of this Court number of decisions rendered in similar matters, wherein, the Courts have ordered to restore the cancellation of GST Registration number by allowing those writ petitions and it would be beneficial to refer to the relevant portion of the orders passed by this Court in similar issue.

i) In W.P.No.25048 of 2021 in the case of (Tvl.Suguna Cutpiece Center vs State of Tamil Nadu) and the operative portion of the said 3 of 11 <https://www.mhc.tn.gov.in/judis> order is extracted herein below:

“... These petitioners deserve a chance and therefore should be allowed to revive their registration, so that they can proceed to regularise the defaults. The authorities acting under the Act may impose penalty with the gravity of lapses committed by these petitioners by issuing notice. If required, the Central Government and the State Government may also suitably amend the Rules to

levy penalty so that it acts as a deterrent on others from adopting casual approach.

229. In the light of the above discussion, these writ petitions are allowed subject to the following conditions....”

(ii) In yet another decision rendered by the Hon'ble High Court of Allahabad in the case of M/s.S.S.Traders Vs. State of UP dated 02.11.2021 it is held as follows:-

“A bare perusal of the show cause notice form under Rule22(1) shows that there is a difference in the show cause

4 of 11 <https://www.mhc.tn.gov.in/judis> notice dated 12.05.2021 issued to the petitioner and in the form of the show cause notice quoted aforesaid. The specific date and time is necessarily required to be mentioned in the notice for showing cause which is conspicuous by its absence in the notice to the petitioner. Moreover, the proviso to subsection (2) of section 29 mandates opportunity of hearing being provided to the person whose registration is proposed to be cancelled before cancelling the registration-the denial of opportunity of hearing to the petitioner as is mandated in the first proviso to sub-section (2) of section 29 of the Act of 2017 vitiates the proceedings as well as the orders of cancelling the registration of the petitioner....”The order of cancellation of registration dated 28.05.2021 as well as order passed in the appeal dated 17.07.2021 are quashed. - Petition allowed – Decided in favour of the petitioner.”

(iii) In Sri.Saravanan Rathnavelu Vs. The Superintendent (CGST), Salem-III, Range passed by this Court in WP.No.30565 of 2023, dated 19.10.2023, it is held as follows;

“206. It should be however remembered that the 5 of 11 <https://www.mhc.tn.gov.in/judis> provisions of the [Goods and Services Tax Act, 2017](#) cannot be interpreted in such a manner, so as to debar an assessee, either from obtaining registration or reviving the lapsed/cancelled registration as such an interpretation would be not only contrary to the [Article 19\(1\)\(g\)](#) of the Constitution of India, but also in violation of [Article 14](#) and [Article 21](#) of the Constitution of India.

207. A reading of Notification No.52/2020 – Central Tax, Central board of Indirect Taxes and Customs, dated 24.06.2020, further indicates that returns could be filed belatedly on payment of late fee and waivers were also granted. Relevant portion of the said Notification reads as under:-

(ii) after the third proviso, the following provisos shall be inserted, namely;-

“Provided also that the total amount of late fee payable for a tax period, under [section 47](#) of the said Act shall stand waived which is in excess of an amount of two hundred and fifty rupees for the registered person who failed to furnish the return in FORM GSTR-3B for the months of July, 2017 to January, 2020, by the due date but furnishes the said return between the period from 01 st day of July, 2020 to 30 th day of September, 2020: Provided also that where the total amount of central tax payable in the said 6 of 11 <https://www.mhc.tn.gov.in/judis> return is nil, the total amount of late fee payable for a tax period, under [section 47](#) of the said Act shall stand waived for the registered person who failed to furnish the return in FORM GSTR-3B for the months of July, 2017 to January, 2020, by the due date but furnishes the said return between the period from 01 st day of July 2020 to 30 th day of September 2020.

208. The provisions of the GST Enactments and the Rules made there under read with various clarifications issued by the Central Government pursuant to the decision of the GST Council and the Notification issued thereunder the respective enactments also make it clear, intention is to only facilitate and not to debar and de-recognise assesseees from coming back into the GST fold.

209. Thus, the intention of the Government has been to allow the persons like the petitioners to file a fresh application and to process the application for revocation of the cancellation of registration by the officers.

210. In my view, no useful purpose will be served by keeping these petitioners out of the bounds of GST regime under the respective GST enactments other than to allow further leakage of the revenue and to isolate these 7 of 11 <https://www.mhc.tn.gov.in/judis> petitioners from the main stream contrary to the objects of the respective GST enactments.

211. The purpose of GST registration is only to ensure just tax gets collected on supplies of goods or service or both and is paid to the exchequer. Keeping these petitioners outside the bounds is a self-defeating move as no tax will get paid on the supplies of these petitioners....” Hence Writ Petition allowed.” 3.2 Therefore, the learned counsel for the petitioner submitted that the petitioner would file GST returns and would pay tax along with penalties and interest thereon etc., in the event of its GST Registration number being restored and hence, prayed for setting aside the impugned order.

4. The learned Additional Government Pleader appearing for the respondent submitted that the petitioner has committed default in filing GST returns. In such circumstances, if this court considers the request of the petitioner, orders would be passed with regard to the restoration of GST Registration of the petitioner and on such restoration, the petitioner may be 8 of 11 <https://www.mhc.tn.gov.in/judis> directed to pay all the tax dues along with penalty and interest within a time frame that may be fixed by this court.

5. Considered the submissions of the learned counsel for the petitioner as well as the learned Additional Government Pleader for the respondent and perused the materials available on record.

6. In view of the fact that the petitioner has been continuing his business operations and due to the ill health of the Managing Partner of the petitioner-Firm, who was incharge of filing the GST returns of the petitioner, the petitioner-Firm was not in a position to file GST Returns and in the light of the judgments relied on by the learned counsel for the petitioner, this court, in the interest of justice, is inclined to allow this Writ Petition.

7. Accordingly, the Writ Petition is allowed, the impugned order is set aside. The petitioner is directed to file restoration petition and the 9 of 11 <https://www.mhc.tn.gov.in/judis> respondent is directed to accept the same and restore the GST Registration number within a week from the date of filing of restoration petition. On restoration of GST Registration, the petitioner is directed to pay the GST dues from July 2022 to December 2022 along with interest, penalty etc., within a period of 45 days from the date of restoration of GST. No costs.

Consequently, the connected miscellaneous petition is closed.

14.12.2023 msr Index:Yes/No Internet:Yes/No To The Assistant Commissioner, Vanagaram Assessment Circle, No.4/109, 3rd Floor, Integrated Commercial Tax Building, Trunk Road, Chennai-Bengaluru High Ways, Varadharajapuram,

Thiruvallur District KRISHNAN RAMASAMY, J.

5. Shree Bankey Bihari Tarding Company vs Principal Commissioner Of Department ... on 24 May, 2024

Author: Sanjeev Sachdeva

Bench: Sanjeev Sachdeva

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 24.05.2024

+ W.P.(C)- 6727/2024

SHREE BANKEY BIHARI TARDING COMPANY

..... Petitioner

versus

PRINCIPAL COMMISSIONER OF DEPARTMENT OF
TRADE AND TAXES AND ANR.

..... Respondents .

Advocates who appeared in this case:

For the Petitioner: Mr. Yash Singania, Advocate

For the Respondents: Mr. Anurag Ojha, Sr. SC with Mr.
Subham Kumar,
Mr. Kumar Abhishek, Advocates
Mr. Rajeev Aggarwal, ASC with Ms. Samridhi
Vats, Advocate

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 08.04.2024 whereby the appeal of the Petitioner has been dismissed solely on the ground that the same is barred by

limitation. Petitioner also impugns order dated 04.10.2019 whereby the GST registration of the Petitioner was cancelled retrospectively with effect from 31.07.2017 and also impugns Show Cause Notice dated 19.09.2019.

2. Petitioner was the proprietor of M/s Shri Bankey Bihari Trading Company and possessed GST registration bearing number 07AHKPG4710A1ZY under the [Central Goods and Service Tax Act, 2017](#) (hereinafter referred to as 'the Act').

3. Show Cause Notice dated 19.09.2019 was issued to the Petitioner seeking to cancel its registration. Though the notice does not specify any cogent reason, it merely states "Any Taxpayer other than composition taxpayer has not filed returns for a continuous period of six months". Said Show Cause Notice required the petitioner to appear before the undersigned i.e., authority issuing the notice. However, the said Notice did not bear the date and time when the Petitioner was required to appear for personal hearing.

4. Said Show Cause Notice also does not put the Petitioner to notice that the registration is liable to be cancelled retrospectively. Thus, the Petitioner had no opportunity to even object to the retrospective cancellation of the registration.

5. Thereafter, the impugned order dated 04.10.2019 passed on the Show Cause Notice dated 19.09.2019 does not give any reasons for cancellation. It merely states that the registration is liable to be cancelled for the following reason "Whereas no reply to notice to show cause has been submitted". However, the said order in itself is contradictory. The order states "reference to your reply dated 28/09/2019 in response to the notice to show cause dated 19/09/2019" and the reason stated for cancellation is "whereas no reply to notice to show cause has been submitted". The order further states that effective date of cancellation of registration is 31.07.2017 i.e., a retrospective date. There is no material on record to show as to why the registration is sought to be cancelled retrospectively.

6. It may be noted that in the impugned order of cancellation, in the column of dues at the bottom there is 'zero' amount stated to be due against the petitioner and the table shows nil demand.

7. Learned counsel for Petitioner submits that the petitioner is no longer interested in continuing business and has closed down all business activities since February 2019.

8. We notice that the Show Cause Notice and the impugned order are bereft of any details. Neither the Show Cause Notice, nor the order spell out the reasons for retrospective cancellation. Accordingly, the same cannot be sustained.

9. In terms of [Section 29\(2\)](#) of the Act, the proper officer may cancel the GST registration of a person from such date including any retrospective date, as he may deem fit if the circumstances set out in the said sub-section are satisfied. Registration cannot be cancelled with retrospective effect mechanically. It can be cancelled only if the proper officer deems it fit to do so. Such satisfaction cannot be subjective but must be based on some objective criteria. Merely, because a taxpayer has not filed the returns for some period does not mean that the taxpayer's registration is required to be cancelled with retrospective date also covering the period when the returns were filed and the taxpayer was compliant.

10. It is important to note that, according to the respondent, one of the consequences for cancelling a tax payer's registration with retrospective effect is that the taxpayer's customers are denied the input tax credit availed in respect of the supplies made by the tax payer during such period. Although, we do not

consider it apposite to examine this aspect but assuming that the respondent's contention is required to consider this aspect while passing any order for cancellation of GST registration with retrospective effect. Thus, a taxpayer's registration can be cancelled with retrospective effect only where such consequences are intended and are warranted.

11. It may be further noted that both the Petitioner and the respondent want cancellation of the GST registration of the Petitioner, though for different reasons.

12. In view of the fact that the Petitioner does not wish to carry on business or continue with the registration, impugned order dated 04.10.2019 is modified to the limited extent that registration shall now be treated as cancelled with effect from 19.09.2019 i.e., the date when Show Cause Notice seeking cancellation of GST registration was issued.

13. Petitioner shall make the necessary compliances as required by [Section 29](#) of the Central Goods and Services Tax Act, 2017.

14. It is clarified that Respondents are not precluded from taking any steps for recovery of any tax, penalty or interest that may be due in respect of the subject firm in accordance with law including retrospective cancellation of the GST registration after issuance of a proper Show Cause Notice and complying with the provisions of natural justice.

15. Petition is accordingly disposed of in the above terms.

SANJEEV SACHDEVA, J

MAY 24, 2024
'rs'

RAVINDER DUDEJA, J

Delhi High Court – Orders

6. M/S Akash Garments India Pvt Ltd vs Union Of India & Anr on 11 November, 2024

Author: Yashwant Varma

Bench: Yashwant Varma, Dharmesh Sharma

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* IN THE HIGH COURT OF DELHI AT NEW DELHI
+ W.P.(C) 5892/2024

M/S AKASH GARMENTS INDIA PVT LTDPetitioner

Through: Mr. N.K. Sharma, Adv.

versus

UNION OF INDIA & ANR.

.....Respondents

Through:

Ms. Shreya Bhardwaj, SPC for
UOI.

Mr. Harpreet Singh, SSC with
Ms. Suhani Mathur, Mr.
Shivang Chawla, Adv.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

11.11.2024

1. This writ petition has been preferred seeking the following reliefs:-

"a. Issue a writ of certiorari or in the nature of certiorari to set aside the Show Cause Notice dated 15/01/2023 and order date 28.02.2023 of Cancellation of GST Registration w.e.f.

02.07 .2017 by proper officer.

b. Issue a writ of mandamus or in the nature of mandamus directing the respondents to cancel the GST registration from the date of application for cancellation i.e. 30.01 .2021 and not retrospectively from the date of GST registration i.e. 02.07.2017.

c. As any other writ/ direction/ order as the Hon' ble Court deems just and

appropriate in the facts and circumstances."

2. The petitioner is essentially aggrieved by the order cancelling its Goods and Services Tax registration with retrospective effect from 02 July 2017. The reliefs thus claimed was restricted to the aforesaid This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 14/11/2024 at 21:45:52 issue only.

3. The record would reflect that the petitioner had earlier moved an application seeking cancellation of its registration under the Central Goods and Services Tax Act, 2017 on 30 January 2021. While examining that application, the respondents had issued a notice dated 01 February 2021 requiring further details to be submitted. However, and since the petitioner failed to respond to that notice, a final order on 13 February 2021 came to be passed rejecting its application for cancellation.

4. It is thereafter that a Show Cause Notice dated 15 January 2023 came to be issued. That notice reads as under:-

"Show case Notice for Cancellation of Registration Whereas on the basis of information which has come to my notice, it appears that your registration is liable to be cancelled for the following reasons:

1. returns furnished by you under [section 39](#) of the Central Goods and Services Tax Act, 2017 Observations Failure of furnish returns for a continuous period of six months You are hereby directed to furnish a reply to the notice within thirty days from the date of service of this notice.

You are hereby directed to appear before the undersigned on 13/02/2023 at 11:00 If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex parte on the basis of available records and on merits.

Please note that your registration stands suspended with effect from 15/01/2023"

Act SCN This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 14/11/2024 at 21:45:52

5. As is manifest from the above, the allegation which formed the basis for that notice was a purported failure on the part of the petitioner to furnish returns as required under [Section 39](#) of the Act. The respondents had alleged that the petitioner had failed to furnish returns for a continuous period of six months.

6. The petitioner is stated to have thereafter filed a reply on 15 February 2023. However, and while passing the final order dated 28 February 2023 which is impugned before us, the respondents have held as follows:-

"Order for Cancellation of Registration This has reference to your reply dated 15/02/2023 in response to the notice to show cause dated 15/01/2023 Whereas the undersigned has examined your reply and submissions made at the time of hearing, and is of the opinion that your registration is liable to be cancelled for following reason(s).

1. No response received from the taxpayer. High availment of ITC. Mobile no not working.

The effective date of cancellation of your registration is 02/07/2017
Determination of amount payable pursuant to cancellation:

Accordingly, the amount payable by you and the computation and basis thereof is as follows:

The amounts determined as being payable above are without prejudice to any amount that may be found to be payable you on submission of final return furnished by you.

You are required to pay the following amounts on or before failing which the amount will be recovered in accordance with the provisions of the Act and rules made thereunder.

Head			
Central Tax	State Tax	Integrated Tax	Cess

This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 14/11/2024 at 21:45:53 Total 0.0 0.0 0.0 0.0 "

7. As is manifest from the above, the respondents have taken the position that no response had been received from the taxpayer and that it would also be evident from the record that the petitioner had incorrectly availed ITC benefits. However, we need not go into those issues since the challenge and the present writ petition stands restricted to the retrospective cancellation of the petitioners' registration under the Act.

8. While speaking on the power that stands conferred by [Section 29](#) of the Act, we had in [Riddhi Siddhi Enterprises vs. Commissioner of Goods and Services Tax \(CGST\), South Delhi & Anr.3](#) held as follows:-

"5. As is manifest from a reading of [Section 29](#), clauses (a) to (e) of [Section 29\(2\)](#) constitute independent limbs on the basis of which a registration may warrant cancellation. While the provision does enable the respondents to cancel that registration with retrospective effect, the mere existence or conferral of that power would not justify a revocation of registration. The order under [Section 29\(2\)](#) must itself reflect the reasons which may have weighed upon the respondents to cancel registration with retrospective effect. Given the deleterious consequences which would ensue and accompany a retroactive cancellation makes it all the more vital that the order be reasoned and demonstrative of due application of mind. It is also necessary to observe that the mere existence of such a power would not in itself be sufficient to sustain its invocation. What we seek to emphasise is that the power to cancel retrospectively can neither be robotic nor routinely applied unless circumstances so warrant. When tested on the aforesaid precepts it becomes ex facie evident that the impugned order of cancellation cannot be sustained.

6. We note that while dealing with the right of the respondents to cancel GST registration with retrospective effect and the manner in which such power should be exercised in accordance with the statutory scheme was an issue which was

noticed in Ramesh Chander vs Assistant Commissioner of Goods and Services Tax, Dwarka Division, CGST W.P.(C) 8061/2024 decided on 25 September 2024 This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 14/11/2024 at 21:45:53 Delhi & Anr.4 The Court in Ramesh Chander taking note of the contours of [Section 29](#) had held:-

"1. The petitioner impugns order in appeal dated 29.12.2023, whereby the appeal filed by the petitioner has been dismissed solely on the ground of limitation. Petitioner had filed the appeal impugning order dated 13.07.2022 whereby the GST registration of the petitioner was cancelled retrospectively with effect from 01.07.2017. Petitioner also impugns Show Cause Notice dated 07.04.2022.

2. Vide impugned Show Cause Notice dated 07.04.2022, petitioner was called upon to show cause as to why the registration be not cancelled for the following reasons:-

"Any Taxpayer other than composition taxpayer has not filed returns for a continuous period of six months"

3. Petitioner was in the business of services involving repair, alterations, additions, replacements, renovation, maintenance or remodelling of the building covered above, General construction services of harbours, waterways, dams, water mains and lines, irrigation and other waterworks, General construction services of long-distance underground/ overland/ submarine pipelines, communication and electric power lines (cables); pumping stations and related works; transformer stations and related works, General construction services of local water & sewage pipelines, electricity and communication cables & related works, Installation, assembly and erection services of other prefabricated structures and constructions and possessed a GST registration.

4. A show cause notice was issued to the petitioner on 07.04.2022 Though the notice does not specify any cogent reason, there is an observation in the notice stating failure to furnish returns for a continuous period of six months. The show cause notice requires the petitioner to appear before the undersigned i.e. authority issuing the notice. Notice does not give the name of the officer or place or time where the petitioner has to appear.

5. Further the order dated 13.07.2022 passed on the show cause notice does not give any reasons for cancellation of the registration. It, however, states that the registration is liable to be cancelled for the following reason "whereas no reply to notice to show cause has been submitted". However, the said order in itself is contradictory, the order states "reference to your reply dated 16.04.2022 in response to the notice to show cause dated 07.04.2022" and the reason stated for cancellation is "whereas no reply to notice to show cause has been submitted". The order further states that effective date of This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 14/11/2024 at 21:45:53 cancellation of registration is 01.07.2017 i.e. retrospective date.

6. Neither the show cause notice, nor the order spell out the reasons for retrospective cancellation. In fact, in our view, order dated 13.07.2022 does not qualify as an order of cancellation of registration.

7. As per the petitioner, the said order reflected that the GST of the Petitioner stands cancelled from 01.07.2017 even though returns thereafter have been filed by the Petitioner.

8. We notice that the show cause notice as well as the impugned order of cancellation, are themselves vitiated on account of lack of reason and clarity. The appeal has been dismissed solely on the ground of limitation. Since the very foundation of entire proceedings i.e. show cause notice and the order of cancellation are vitiated, we are of the view that no purpose would be served in relegating the petitioner to the stage of an appeal.

9. In terms of [Section 29\(2\)](#) of the Central Goods and Services Tax Act, 2017, the proper officer may cancel the GST registration of a person from such date including any retrospective date, as he may deem fit if the circumstances set out in the said sub-section are satisfied. The registration cannot be cancelled with retrospective effect mechanically. It can be cancelled only if the proper officer deems it fit to do so. Such satisfaction cannot be subjective but must be based on some objective criteria. Merely, because a taxpayer has not filed the returns for some period does not mean that the taxpayer's registration is required to be cancelled with retrospective date also covering the period when the returns were filed and the taxpayer was compliant. 10. It is important to note that, according to the respondent, one of the consequences for cancelling a tax payer's registration with retrospective effect is that the taxpayer's customers are denied the input tax credit availed in respect of the supplies made by the tax payer during such period. Although, we do not consider it apposite to examine this aspect but assuming that the respondent's contention in this regard is correct, it would follow that the proper officer is also required to consider this aspect while passing any order for cancellation of GST registration with retrospective effect. Thus, a taxpayer's registration can be cancelled with retrospective effect only where such consequences are intended and are warranted.

11. The show cause notice does not even state that the registration is liable to be cancelled from a retrospective date.

12. The petition is allowed. The impugned show cause notice dated 07.04.2022, order of cancellation dated 13.07.2022 and This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 14/11/2024 at 21:45:53 the order in appeal dated 29.12.2023 are accordingly set aside. GST registration of the petitioner is restored, subject to petitioner filing requisite returns upto date.

13. It is clarified that since the petitioner could not have filed the return after the GST registration was suspended, there shall be no liability to pay any penalty or fine for delayed filing. However, this would only apply in case petitioner files an affidavit of undertaking that petitioner has not carried out any business or raised invoices or taken any Input Tax Credit after the registration was suspended with effect from 07.04.2022 i.e., the date of suspension of the registration.

14. Respondent would be at liberty to initiate appropriate proceedings in accordance with law after giving a proper show cause notice containing complete details, if so advised. Further this order would not preclude the respondent from initiating any steps in accordance with law, if it is found that the petitioner had violated any provisions of the Act.

15. Petition is disposed of in the above terms."

7. We further take note of the judgment in [Delhi Polymers vs Commissioner, Trade and Taxes & Anr.5](#) wherein the following was observed:-

"1. Petitioner has filed the appeal impugning order of cancellation of registration dated 15.12.2021 whereby the GST registration of the Petitioner has been cancelled retrospectively with effect from 01.07.2017. Petitioner also impugns Show Cause Notice dated 04.09.2021.

2. Vide Show Cause Notice dated 04.09.2021, petitioner was called upon to show cause as to why the registration be not cancelled for the following reason:-

"Collects any amount representing the tax but fails to pay the same to the account of the Central/State Government beyond a period of three months from the date on which such payment becomes due"

3. Petitioner was engaged in the business of Sanitary ware Products & Accessories i.e., Baths, Shower, Washbasins, Seats and Cover etc. and possessed GST registration.

4. Show Cause Notice dated 04.09.2021 was issued to the Petitioner seeking to cancel its registration. However, the Show Cause Notice also does not put the petitioner to notice that the registration is liable to be cancelled retrospectively. Accordingly, the petitioner had no opportunity to even object to the retrospective cancellation of the registration.

5. Further, the impugned order dated 15.12.2021 passed on the This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 14/11/2024 at 21:45:53 Show Cause Notice dated 04.09.2021 does not give any reasons for cancellation. It, however, states that the registration is liable to be cancelled for the following reason "whereas no reply to the show cause notice has been submitted". However, the said order in itself is contradictory. The order states "reference to your reply dated 15.12.2021 in response to the notice to show cause dated 04.09.2021" and the reason stated for the cancellation is "whereas no reply to notice show cause has been submitted". The order further states that effective date of cancellation of registration is 01.07.2017 i.e., a retrospective date.

6. Neither the show cause notice, nor the order spell out the reasons for retrospective cancellation. In fact, in our view, order dated 15.12.2021 does not qualify as an order of cancellation of registration. On one hand, it states that the registration is liable to be cancelled and on the other, in the column at the bottom there are no dues stated to be due against the petitioner and the table shows nil demand.

7. Learned Counsel for the Petitioner submits that the said order reflected that the GST registration of petitioner stands cancelled from 01.07.2017 even though returns thereafter have been filed by the Petitioner.

8. He further submits that the petitioner is no longer interested in continuing the business and the business has been discontinued.

9. In terms of [Section 29\(2\)](#) of the Act, the proper officer may cancel the GST registration of a person from such date including any retrospective date, as he may deem fit if the circumstances set out in the said sub-section are satisfied. Registration cannot be cancelled with retrospective effect mechanically. It can be cancelled only if the proper officer deems it fit to do so. Such satisfaction cannot

be subjective but must be based on some objective criteria. Merely, because a taxpayer has not filed the returns for some period does not mean that the taxpayer's registration is required to be cancelled with retrospective date also covering the period when the returns were filed and the taxpayer was compliant.

10. It is important to note that, according to the respondent, one of the consequences for cancelling a tax payer's registration with retrospective effect is that the taxpayer's customers are denied the input tax credit availed in respect of the supplies made by the tax payer during such period. Although, we do not consider it apposite to examine this aspect but assuming that the respondent's contention is required to consider this aspect while passing any order for cancellation of GST registration with retrospective effect. Thus, a taxpayer's This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 14/11/2024 at 21:45:53 registration can be cancelled with retrospective effect only where such consequences are intended and are warranted.

11. It may be further noted that both the Petitioners and the department want cancellation of the GST registration of the Petitioner, though for a different reason.

12. In view of the fact that Petitioner does not seek to carry on business or continue the registration, the impugned order dated 15.12.2021 is modified to the limited extent that registration shall now be treated as cancelled with effect from 04.09.2021 i.e., the date when the Show Cause Notice was issued.

13. It is clarified that Respondents are also not precluded from taking any steps for recovery of any tax, penalty or interest that may be due in respect of the subject firm in accordance with law.

14. Petition is accordingly disposed of in the above terms."

8. In view of the aforesaid and in light of an abject failure on the part of the authority to assign even rudimentary reasons for a retroactive cancellation, we find ourselves unable to sustain the order impugned."

9. We consequently, and in the absence of any indication in the SCN of the reasons which weighed upon the respondents to cancel registration with retrospective effect, find ourselves unable to sustain the impugned order.

10. The writ petition is accordingly allowed. The impugned order dated 28 February 2023 to the extent that it purports to operate with effect from 02 July 2017 shall stand quashed. The cancellation shall consequently come into effect from the date of issuance of the SCN namely 15 January 2023.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

NOVEMBER 11, 2024/neha This is a digitally signed order.

Delhi High Court

7. Manisha Gupta Prop Varun Enterprises vs Union Of India Through Secretary ... on 22 January, 2024

Author: Sanjeev Sachdeva

Bench: Sanjeev Sachdeva

SANJEEV SACHDEVA, J. (ORAL) CM APPL. 4034/2024 (U/s 151 [CPC](#) filed by petitioner to place on record copy of acknowledgement of withdrawal of appeal/application vide No. AD0710230160302 dated 12.12.2023)

1. For the reasons stated in the application, the application is allowed. The Document is taken on record.

W.P.(C) 381/2024

1. Petitioner impugns order dated 07.10.2022, whereby the GST registration of the petitioner has been cancelled retrospectively with effect from 02.07.2017 and also impugns the Show Cause Notice dated 23.09.2022.

23.09.2022

2. Vide Show Cause Notice dated 23.09.2022,, petitioner was called upon to show cause as to why the registration be not cancelled for the following reasons:- reasons:

"Any Taxpayer other than composition taxpayer has not filed returns for a continuous period of six months"

3. Petitioner was in the business of purchase and sale of Surgical Goods and Trading goods and was registered under the [Goods and Services Tax Act, 2017](#). Petitioner claims to have stopped the business on 28.01.2019 and submitted an application on 03.08.2022 seeking cancellation of registration. Pursuant to the said application, notice was given to the Petitioner on 04.08.2022, seeking additional information and documents relating to application for cancellation of registration. As per the Petitioner, she could not submit the required information as she did not have regular business and could not look up the portal. Pursuant, to non-supply non supply of the said documents order dated 16.08.2022 was passed rejecting the application for cancellation filed by the Petitioner.

Petitioner

4. Further, the show cause notice issued to the petitioner on 23.09.2022 does not specify any cogent reason, there is an observation in the notice stating "failure "failure to furnish returns for a continuous period of six months".

5. Further, the impugned order dated 07.10.2022 states that the registration is liable to be cancelled for the following reason ""no response received from the taxpayer". It seeks to cancel the registration with effect from 02.07.2017. There is no material on record to show as to why the registration is sought to be cancelled retrospectively.

6. Further, the Show Cause Notice dated 23.09.2022 also does not put the petitioner to notice that the registration is liable to be cancelled retrospectively.

Accordingly, the petitioner had no opportunity to even object to the retrospective cancellation of the registration.

7. Records clearly demonstrates that petitioner had submitted an application seeking cancellation of the GST registration on 03.08.2022 and thereafter, vide order dated 07.10.2022, the registration of the petitioner had been cancelled. We note that the cancellation of registration has been done with retrospective effect.

8. In terms of [Section 29\(2\)](#) of the Central Goods and Services Tax Act, 2017, the proper officer may cancel the GST registration of a person from such date including any retrospective date, as he may deem fit if the circumstances set out in the said sub sub-section are satisfied. Registration cannot be cancelled with retrospective effect mechanically. It can be cancelled only if the proper officer deems it fit to do so. Such satisfaction cannot be subjective but must be based on some objective criteria. Merely, because a taxpayer has not filed the returns for some period does not mean that the taxpayer's registration is required to be cancelled with retrospective date also covering the period when the returns were filed and the taxpayer was compliant.

9. It is important to note that, according to the respondent, one of the consequences for cancelling a tax payer's registration with retrospective effect is that the taxpayer's customers are denied the input tax credit availed in respect of the supplies made by the tax payer during such period. Although, we do not consider it apposite to examine this aspect but assuming that the respondent's contention in this regard is correct, it would follow that the proper officer is also required to consider this aspect while passing any order for cancellation of GST registration with retrospective effect. Thus, a taxpayer's registration can be cancelled with retrospective effect only where such consequences are intended and are warranted.

10. During the hearing an affidavit has been handed over by learned counsel for the Petitioner in Court wherein, it is stated that petitioner has not carried out any business since last Sale Invoice which was issued on 28.01.2019. Further, the learned counsel for the petitioner submits that Petitioner has filed GST returns till March, 2021.

11. Further, in the affidavit petitioner has undertaken to file all the statutory returns pending under the GST till order of cancellation and also to discharge any liabilities on account of tax, interest and late fees within two weeks of opening up of the portal enabling the petitioner to make necessary compliances. The affidavit is taken on record. Petitioner is bound down to the affidavit.

12. In view of the above facts and circumstances, the order of cancellation is modified to the extent that the same shall operate with effected from 28.01.2019, 28 i.e., the date on which the petitioner is alleged to have last carried on business.

13. It is clarified that respondents are not precluded from taking any steps for recovery of any tax, penalty or interest that may be due from the petitioner in accordance with law.

14. The petition is accordingly disposed of in the above terms.

SANJEEV SACHDEVA, J RAVINDER DUDEJA DUDEJA, J January 22, 2024/sk

VAKLATNAMA

IN THE GOODS AND SERVICE TAX TRIBUNAL, NEW DELHI BENCH, AT NEW DELHI

APPEAL NO XXXXXX OF 2025

In the Matter of:

ASHOK KUMAR PROPRIETOR OF M/S ABC & CO. - Appellant

VERSUS

COMMISSIONER-Respondent

KNOW ALL to whom these present shall come that I Ashok **Kumar**, Proprietor of the above-named firm M/S ABC & Co. do hereby appoint **Chartered Accountant Renu Sharma** to be my COUNSEL in the above noted case authorise her:-

1. To act, appear and plead in the above-noted case in this Tribunal in which the same may be tried or heard subject to payment of fees me.
2. To sign, file, verify and present pleadings, appeals, cross-objections or petitions for executions review revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages subject to payment of fees for each stage.
3. To file and take back documents, to admit and/or deny the documents of opposite party.
4. To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.
5. To take execution proceedings.
6. To deposit, draw and receive monthly cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.
7. To appoint and instruct any other Legal Practitioner authorising him/her to exercise the power and authority hereby conferred upon the CA whenever she may think fit to do so and to sign the power of attorney on our behalf.
8. And I/We the undersigned do hereby agree to rectify and confirm all acts done by the CA or her substitute in the matter as my/our own acts, as if done by me/us to all intents and proposes.
9. And I/We undertake that I/We or my/our duly authorised agent would appear in Tribunal on all hearings and will inform the Advocate for appearance when the case is called.s

10. And I/We the undersigned do hereby agree not to hold CA or her substitute responsible for the result of the said case.

11. The adjournment costs whenever ordered by the Tribunal shall be of the CA which she shall receive and retain for herself.

12. And I/We the undersigned to hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the CA remaining unpaid she shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Tribunal . I//we hereby agree that once fee is paid, I/We will not be entitled for the refund of the same in any case whatsoever and if the case prolongs for more than 3 years the original fee shall be paid again by me/us.

IN WITNESS WHEREOF I/We do hereunto set my/our hand to these presents the contents of which have been understood by me/us on this 29th day of March 2025.

Accepted, and identified the client.

Signature of the Party
ASHOK KUMAR
(Proprietor of M/s ABC & Co.)

Accepted By
CA RENU SHARMA
Chartered Accountant Enrolment No:0XXX05

GSTAT FORM-04
(see rule 72)
Memorandum of appearance

To The Registrar,
The Goods and Services Tax Appellate Tribunal

In the matter of Ashok Kumar Proprietor of M/s ABC & Co. Petitioner. Vs. Joint Commissioner (Appeals) Respondent (Appeal No xxxxxxxx of 2025) Sir, please take notice that I, CA Renu Sharma, authorised representative/ practising Chartered Accountant, duly authorised to enter appearance, and do hereby enter appearance, on behalf Mr. Ashok Kumar petitioner in the above-mentioned petition. A copy of the authorisation/vakalatnama issued by the Appellant authorising me to enter appearance and to act for every purpose connected with the proceedings for the said party is enclosed, duly signed by me for identification.

Dated 29th day of March 2025

Yours sincerely,

CA XXXXSHARMA

Address: Arora's KDC ,
28,XXXXXXXXXX Road ,
Karol Bagh, New Delhi- 110005
Tele No.: 98xxxx0839

MEDICAL CERTIFICATE

Date: 05.11.2024

This is to certify that Mr. Ashok Kumar, aged 65, residing at 56/16 Karol Bagh New Delhi 110005, was admitted to Knight angle on 07.05.2024 due to a myocardial infarction (heart attack).

The patient was under my medical care and was diagnosed with acute myocardial infarction, for which hospitalization and continuous medical supervision were necessary. The patient remained admitted from 07.05.2024 to 25.09.2024.

Based on the medical evaluation and treatment provided, the patient is advised rest and recovery at home for a period of atleast Three Months, from 26.09.2024 to 26.12.2024, and is unfit to resume normal duties during this period.

This certificate is issued upon request for whatever purpose it may serve.

Doctor's Name: Dr. R Ahuja
Qualification: M.B.B.S., M.D. In Cardiology
Registration Number: 0XXXX89
Hospital/Clinic Name: Knight angle
Contact Number: 98XXXXX623

Signature & Stamp:

To GST Department
Delhi

ON instructions of the client, I have examined the returns filed by ABC and CO having GSTN 07AAPHXXXXL1ZR of which Shri Ashok Kumar is the Proprietor. The returns have been examined by me for the period April 24 till October 24 as produced before us. I have examined the legal requirements for filing such returns as per procedure laid down in CGST Rules and CGST Act and have found that all the returns duly comply with the legal requirements and all materials facts have been fully disclosed. Section 39 and its requirements are fully met.

For XXXXXX Agarwal & Co.

Name: CA XXXX Agarwal
Membership Number:0XXXX5
Place: New Delhi
Date:05.11.2024
UDIN-24061005BXXXX8090

Acknowledgement of returns

Details of Sales & Purchases after October 2024
Sales November 2024

Date	Invoice No.	Receipient	GSTN	Invoice Value	Taxable Value	IGST	CGST	SGST	Total Tax
05.11.2024	175	M/S. Janta Sales Corporation	07AAxxx575C1ZD	303024	256800		23112	23112	46224
05.11.2024	176	Dinesh Electronics	07AAICBXXXQ1Z9	541148	458600		41274	41274	82548
07.11.2024	177	Reliance Mensa Brand Technologies Private Limited	03AABCXXX8E1ZZ	302080	256000	46080		0	46080
15.11.2024	178		08AAOCXXxx6J1Z6	114224	96800	17424		0	17424
17.11.2024	179	Kothari Apparls	19AABxxxx98K1Z0	105846	89700	16146		0	16146
18.11.2024	180	M/S. Janta Sales Corporation	07AAIxxxx75C1ZD	89444	75800		6822	6822	13644
19.11.2024	181	M/S. Janta Sales Corporation	07AAIxxxx75C1ZD	105704	89580		8062	8062	16124
22.11.2024	182	M/s Sahoo Trading Co.	07AAxxxx095C1ZD	133694	113300		10197	10197	20394
				1695164	1436580	79650	89467	89467	####

Purchases -01-11-2024

Date	Invoice No.	Receipient	GSTN	Invoice Value	Taxable Value	IGST	CGST	SGST	Total ITC
01.11.2024	420/24-25 AK/56/24-25	Raj Kumar	07ANXPxxxxxD1ZL	177000	150000		13500	13500	27000
01.11.2024	K/356/24-25	AJIT KUMAR	07AWRPxxxx4A1Z9	92630	78500		7065	7065	14130
07.11.2024	25	MRINAL KANTI DEBNATH	19BKJPDxxxxD1Z2	101008	85600	15408			15408
25.11.2024	256/24-25	SURESHBHAI VITTHALBHAI TIMBADIYA	24AEOPTxxxG2Z2	105846	89700	16146			16146
27.11.2024	054/24-25	GRAPEVINE MEDIA	19AAPFGxxxP1ZJ	114283	96850	17433			17433
28.11.2024	21567 AK/87/24-25	ANAYAT HOSSAIN KHAN	19AKDPKxxxxH1ZC	187266	158700	28566			28566
28.11.2024		AJIT KUMAR	07AWRPxxx4A1Z9	237180	201000		18090	18090	36180
				1015213	860350	77553	38655	38655	154863

Tax Payable for Nov 24

2097 50812 50812 ####

Sale
Dec-24

15.12.2024	183	Kothari Apparals	19AABCKxxxxK1Z0	139830	118500	21330		0	21330
15.12.2024	184	Mensa Brand Technologies Private Limited	08AAOCMxxxx6J1Z6	279912	256800	23112		0	23112
17.12.2024	185	Reliance	03AABCRxxxxE1ZZ	91303	77375	13928		0	13928
17.12.2024	186	M/S. Janta Sales Corporation	07AAICNxxxxC1ZD	187502	158900		14301	14301	28602
21.12.2024	187	M/S. Janta Sales Corporation	07AAICN6xxxxxC1ZD	89444	75800		6822	6822	13644
				787991	687375	58370	21123	21123	#####

Purchases									
Dec-24									
Date	Invoice No.	Receipient	GSTN	Invoice Value	Taxable Value	IGST	CGST	SGST	Total ITC
12-12-2024	57/24-25	ANSH COLLECTIONS	07AIJPK4xxxx1ZC	67024	56800		5112	5112	10224
13-12-2024	125/24-25	RAJESH PANDIT	07ACDPxxxxxP1ZP	30208	25600		2304	2304	4608
13-12-2024	JK/256/24-25	HAZARAT BAZAR	08AADCA7xxxxxD1Z0	29995.6	25420	4575.6			4575.6
15-12-2024	1567	Ram Sarup Narshing lal	07AILPGxxxxR1ZE	20650	17500		1575	1575	3150
17-12-2024	AK/156/24-25	AJIT KUMAR	07AWRPxxx4A1Z9	30208	25600		2304	2304	4608
				178086	150920	4575.6	11295	11295	27166
Tax Payable						53794	9828	9828	73450
Total laibility payable						55891	60640	60640	177171
Interest as applicable									

Since Cacellation was done so no business done	
Period	Details
Jan-25	NIL
Feb-25	NIL
#####	NIL
Apr-25	NIL