

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

1. GSTIN/ Temporary ID /UIN - 123456789
2. Name of the appellant – INDICO PRIVATE LIMITED
3. Address of the appellant – BALIMARAN, DELHI
4. Order appealed against: APPELLATE AUTHORITY
5. Order Number XXXXXXXX Date- 14.02.2025
6. Name and Address of the Authority passing the order appealed against –
7. Date of communication of the order appealed against – 14.02.2025
8. Name of the representative – ADV. NARENDER AHUJA
9. Details of the case under dispute:
  - (i) Brief issue of the case under dispute :- AS PER SEPARATE NOTES ON FACTS ENCL.
  - (ii) Description and classification of goods/ services in dispute “ NA
  - (iii) Period of dispute (iv) Amount under dispute: NA

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

(v) Market value of seized goods - NA

10. Whether the appellant wishes to be heard in person? YES
11. Statement of facts : AS PER SEPARATE NOTES ON FACTS ENCLOSED
12. Grounds of appeal AS PER SEPARATE NOTES ON GROUNDS ENCLOSED
13. Prayer AS PER SEPARATE NOTES ON PRAYER ENCLOSED
14. Details of demand created, disputed and admitted

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



cess and not exceeding Rs.40 crores in respect of IGST]							
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<sup>2</sup>[(b) Details of payment of admitted amount and pre-deposit of 10% of the disputed tax and cess but not exceeding Rs. 20 crore each in respect of CGST, SGST, cess and not exceeding Rs. 40 crore in respect of IGST.]

Sr. N o.	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		Cash Ledger	NA	NA	NA		NA	NA
			Credit						

	tax		Ledger	NA	NA	NA	NA	NA
2.			Cash Ledger	NA	NA	NA	NA	NA

	Central tax		Credit Ledger	NA	NA	NA	NA	NA
3.	State /U T tax		Cash Ledger	NA	NA	NA	NA	NA
			Credit Ledger	NA	NA	NA	NA	NA
4.	CESS		Cash Ledger	NA	NA	NA	NA	NA
			Credit Ledger	NA	NA	NA	NA	NA

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

Sr. N o.	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)									

<sup>4</sup> [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

Place of Supply (Name of State/UT)	Demand	Tax	Interest	Penalty	Other	Total

1	2	3	4	5	6	7]
	Admitted amount [in the Table in sub-clause (a) of clause 14 (item (a))]	NA	NA	NA	NA	NA
		NA	NA	NA	NA	NA

**Verification**

I, AA 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 therefrom.

Place: DELHI

Date: 14.04.2025

FOR INDICO PRIVATE LIMITED

SD/-

AA  
DIRECTOR

1. Substituted vide Notification No. 20/2024-CT dated 08.10.2024 w.e.f. 01.11.2024.
2. Substituted vide Notification No. 20/2024-CT dated 08.10.2024 w.e.f. 01.11.2024.

**INDICO PRIVATE LIMITED. GSTIN: 123456789**  
**FACTS OF THE CASE**

THE APPELLANT IS AGGRIEVED BY THE ACTIONS TAKEN BY THE LOWER AUTHORITIES INCLUDING THE ADJUDICATION OFFICER AND THE FIRST APPELALTE AUTHORITY.

The registration of the appellant has been cancelled under Section 29(2) of the DGST Act read with CGST Act on the ground that the appellant has contravened the provisions of the Act.

1. The appellant says and submits that his co. INDICO PRIVATE LIMITED a Company who deals in trading of goods having one or two HSN code is registered with the Department since 01.07.2017 and the appellant continues to work from the business address given at the time of registration.
2. The Appellant has filed all the returns filed u/s 39 till the date of cancellation of the registration certificate.
3. On 04.10.2024 the Department conducted a physical visit at the premises of the appellant. The appellant fully cooperated with the inspector and provided all the requested documents at the time of the visit.
4. The inspector visiting the business premises had raised some questions regarding the HSN code, E-way Bills, Invoices and the suppliers and the appellant answered all of his questions with the documentary evidences.

**SHOW CAUSE NOTICE AND REPLY FILED.**

5. The Appellant then received a Show Cause Notice (SCN) DT. 06.10.2024 requesting the appellant to file a reply against the notice. The SCN stated that based on the report of the physical visit the following violations have been found namely:
  - a. There is a phenomenal increase in the turnover and the purchases made by the appellant.
  - b. 6 Digit HSN code were not mentioned on the face of the invoices.
  - c. E-way bills not reconciled with the invoices resulting in not paying the full tax as per the GSTR-1 without issuing the debit or credit notes as required by section 34.
  - d. Most of the Invoices issued by the appellant were not signed by anybody.
  - e. E-way bills and transporter details were left blank.
  - f. Claiming of input tax credit against the invoices which are not reflecting in books as well as in GSTR-2B.
  - g. Input tax credit availed from the suspicious firms.
  - h. Outward supply made to customers whose input tax credit is

suspicious.

It appears that the proper officer has issued the show cause notice in undue haste, resulting in the inclusion of multiple allegations.

The appellant filed reply online on 24.11.2024 (A copy of which is annexed as Annexure C to this appeal petition along with show-cause notice issued.) The Appellant in his reply, duly submitted within the time limit, has mentioned that baring some invoices issued without HSN, there were no such gross violations that led to the cancellations of the registration.

The appellant mentioned that since he deals in the goods having same HSN code so it is not mandatory to repeat the HSN in the invoices while the full details is mentioned in the other columns of the invoices. The Appellant also mentioned in his reply that the he deals with the people with the good records but still he can't see much details from the portal than filing status. All the suppliers are regularly filing their returns under section 39 in the due course. The appellant has shown all the documentary evidences to the visiting team and also requested to proper officer to see the evidences but to no avail.

The appellant had categorically stated in his reply that there is no such ground available to cancel the registration certificate of the dealer under Section 29(2) merely on the basis of some suspicion, without questioning the activities of the appellant, the proper officer has made allegations that have no legs to stand. The Petitioner preferred an appeal before the Additional Commissioner, Commercial Tax, and contested on the documentary evidences which was also dismissed *vide* order dated 14.02.2025.

**FOR INDICO PRIVATE LIMITED.**

**AA  
DIRECTOR**

**INDICO PRIVATE LIMITED. GSTIN: 123456789**

**GROUND OF THE CASE**

1. THAT THE APPELALNT SAYS AND SUBMITS THAT the GST registration can only be cancelled when the conditions of Section 29(2) of the CGST Act are fulfilled. Nothing substantial has been found against the appellant as per show cause notice or in the orders of the lower authorities and the show cause issued to levelled the allegations and seeking clarifications.
2. That on the facts and circumstance of the case and law, the Ld. Proper Officer violated the fundamental rights provided under Article 19(1)(g) of the Constitution of India that guarantees every citizen to practice any profession, or to carry on any occupation, trade, or business.
3. That the Honorable Madras High Court in the writ petition no. 25048 of 2021 dt. 31.01.2022 held at paragraph 206 of the order that **It should be however remembered that the 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.**
4. That the Honorable Madras High Court in the writ petition no. 6969 of 2024 of Rooban Agencies vs. Asstt. Commissioner GST Appeal again repeated the same views that the GST Act can not be interpreted in a way that restrict the right of the citizen to do any profession, trade or business whatsoever he or she choose to do.
5. That on the facts and circumstances of the case and in law, the Ld. Proper Officer has erred in cancelling the GST registration under section 29(2) of the DGST act ignoring the fact the Ld. Proper officer had not found anything serious against the Appellant.
6. That appellant further submit that the cancellation on the basis of purchases made from the suppliers whose input tax credit is suspicious is mere presumptions, conjectures and surmises and no such evidences were provided either by the visiting team or the proper officer. Moreover there is no such ground mentioned in section 29(2) or the rules made thereunder to cancel the registration certificates.

7. That on the facts and the circumstances of the case and in law, the appellant further submit that the proper officer erred in law cancelling the registration on the basis of goods sold to the customers whose ITC is in eligible is mere a presumption and the appellant has no role in his input tax credit. The appellant is selling goods to these customers, collecting tax and depositing the same with the department either through the credit ledger or cash ledger.
8. The appellant further submits that overlooking of HSN details and E-Way bill details on some of the invoices is not a ground to cancel the GST registration with retrospective date. It's a matter of clerical mistake and the same has been well explained by the appellant to the visiting team as well as to the proper officer. The appellant had provided the reconciliation to that effect. The appellant provided the reconciliation with the proof that the entire sales has been recorded in the books of accounts and no sale was concealed and proper tax was paid.
9. The appellant further submit that difference of output tax liability in GSTR-1 and GSTR-3B was paid through DRC 03 at the time of filing of the annual return submitted on 15.12.2024 for and the same was submitted to the proper officer. The proper officer failed to consider the same while passing the order.
10. The appellant says and submits that the transactions in question are genuine and valid and relying upon all the supporting relevant documents required under law, the petitioner with due diligence verified the genuineness and identity of the supplier and name of the supplier as registered taxable person was available at the Government Portal showing its registration as valid and existing at the time of transaction, the name of the supplier as registered taxable person was already available with the Government record and the petitioner has paid the amount of purchased articles as well as tax on the same through bank and not in cash. Hence, it would be wrong on the part of the proper officer to say that the suppliers were bogus firms.
10. The appellant further says and submits that the show-cause notice dated 06.10.2024 was not based on the facts but was only on the basis of the presumptions and the proper officer did not consider the reply filed by the appellant against the said SCN.
11. **In the ref. TVL A. R. Traders Vs the Commercial Tax officer on 29.10.2024, the Madras High Court rightly stated that As already observed, if at all the petitioner indulged in conducting the business in**



**contravention of the provisions of the Act, the respondent is supposed to take both civil as well as the criminal action against the petitioner in the 12.Manner provided in law, but certainly, ought not to have suspended the GST registration of the petitioner. It directly hit the fundamental right of the petitioner since the petitioner is entitled to trade and carry on the business. Therefore, the impugned proceedings dated 05.09.2024 are liable to be set aside.**

**FOR INDICO PRIVATE LIMITED.**

**AA  
DIRECTOR**

INDICO PRIVATED LIMITED  
BALIMARN, DELHI- 100006  
GSTIN: - 123456789

**Prayers**

1. In view of the above factual and legal matrix the appellant respectfully prays that the registration certificate of the appellant be restored to its original number;
2. And the directions be issued to allow the appellant to claim input tax credit for the period between cancellation and restoration in the interest of justice.
3. Pending disposal of this appeal the proceedings under section 74 may kindly be directed to be deferred;
4. Any other order as this Hon'ble Tribunal may find fit and proper be also allowed in favour of the appellant.

**FOR INDICO PRIVATE LIMITED.**

**AA  
DIRECTOR**

**BEFORE THE JOINT COMMISSIONER (APPEALS), ZONE 10, DELHI GST  
DEPARTMENT, ITO, DELHI**

**DIN NO.. Xxxxxx Date: 14th Feb 2025**

**INDICO Private Limited  
Katra Balinan  
Delhi 110 006  
GSTIN No.... 123456789**

**ORDER IN ORIGINAL UNDER SECTION 107 OF THE DGST ACT READ WITH  
CGST ACT.**

The taxpayer has filed an appeal under section 107 (1) of the DGST Act read with CGST Act against the order of the First AA dated 14.12.2 The appeal has been filed in time and pre-deposit is not required as there is no tax demand involved. The tax payer has also filed an urgent hearing application as the appeal relates to cancellation of registration certificate without which the appellant finds himself unable to do any business. I have considered the request of the appellant and heard the appeal on urgent basis

Heard Shri Narender Ahuja, Ld Counsel for the appellant at length.

On his request called for the ward records to pursue the various reports and the order sheet including the replies filed by the appellant. I have examined the same at length and also heard the learned counsel at length.

The counsel has reiterated his contentions as raised in the reply to the show cause notice that have been considered by the adjudicating authority at length. He has also produced books of accounts to show that all purchases and sales are duly recorded in the books, he has filed all the returns, there is nothing wrong in 2B reports filed by the suppliers and above all he ha vehemently argued that all the business done by the appellant is in due course of law. He has further argued at length that if activities of his suppliers are suspicious than he cannot do anything. On the date of transactions he had done due diligence and verified their KYC and there was nothing adverse against them on the GST portal or otherwise brought to the attention of the appellant. Further he has forcefully put forward his contention that simply because there are some issues that the revenue has with the suppliers cannot be a ground for cancelling his registration certificate and that too retrospectively. He has further contended that the show cause notice is nothing but an order itself as the adjudication officer had already made up his mind to cancel the registration certificate and all the opportunities that were offered to the appellant were merely a formality to be completed.

Your reply to the show cause notice issued to you under the above provision has been considered and you have also been personally heard by the undersigned  
**FINALLY ON 8th January 2025**

The counsel has also reiterated that the allegations mentioned in the show cause notice are not legally correct. The appellant has paid taxes in time and claimed the eligible input tax credit only. Regarding HSN classification and not following the law, this is also not correct as most of the items we trade are falling in the same HSN classification and hence sometimes the tax invoices are left blank on HSN even though the item description is mentioned thereon. E Way bills and transportation details are duly available and that being a matter of procedure can always be explained. Regarding variation in GSTR 1 liabilities and actual tax reflected in 3B returns, yes we agree there are differences but these are explainable differences and at the time of assessment we shall be able to explain the same. Non-signature of tax invoices is not that a serious lapse in procedure to justify cancellation of registration certificate. Regarding our purchases we are purchasing goods from registered tax payers in due course of business without any knowledge about their conduct that you say is not good. We have all documentary evidence in our possession to prove the genuineness of our transactions. We have made payments in due course of law.

I have considered the reports of the visiting team (shown to you in person), and also your reply and oral submissions. No evidence has been brought on record to substantiate the averments made by you in your reply. It is clearly an afterthought. He has denied any wrong doing that could justify the action was taken by the adjudicating officer.

WHEN CONFRONTED with the observations of the adjudicating officer as follows

“The findings against you in the show cause notice were pursuant to physical verification of your business premises and nothing has been brought on record to rebut the same. You have been indulging in gross violation of provisions of the Act that are material in nature affecting your tax liabilities and revenue of the Government. Your explanations given in the show cause notice also lack credence as no documentary evidence has been brought on record even at this stage showing that you are a habitual violator of laws of DGST Act and DGST Rules.”

The counsel maintained his stand that all these are presumptions and conjectures and there is no truth in such baseless allegations. However he was unable to bring anything substantial on record in his favour that could demonstrate to the contrary whereas as per ward file that was called for on the request of the counsel for the appellant there are very serious reports showing that the appellant has been grossly violating the provisions of the Act and of the Rules. I have pursued such reports myself and prima facie concur with the views of the adjudicating authority.

In my view there is an overwhelming evidence against the appellant and without any substantial rebuttal except blank denial and in spite of many opportunities provided to the appellant by the adjudicating authority, I find no reasons that could convince me to interfere with the orders of the adjudicating authority that rightfully compelled him to cancel appellant's registration certificate in terms of section 29(2)(a) of the DGST Act and the date of cancellation of your certificate is w.e.f. 4.10.2024 as was proposed in the show cause notice.

Regarding contention of the appellant that cancelling the registration certificate retrospective affects the rights of innocent buyers to whom the appellant had sold

the goods who will be forced into fire of litigation and relying on various HC judgments, I think this issue is too premature to be dealt with as there is nothing in any order denying input tax credit to the buyers whose rights may or may not be affected. It for those buyers to prove eligibility of input tax credit and this issue cannot be raised in this appeal as this appeal has been directed against the impugned order of the adjudicating authority cancelling the registration certificate.

There is nothing the language of section 29(2)(a) of the DGST Act that could be interpreted that the adjudicating authority has no such authority to cancel the registration certificate retrospectively as this provision has clothed the proper officer with the power to cancel registration certificate from such date, including retrospective date... and in my humble view the Legislature would have been fully aware of the consequences such a provision would have on the buyers who buys goods or services or both from such cancelled suppliers. It is not for this authority to opine on such issues especially when such issue is not debated in any of the notices or order before this authority. Hence, I do not agree with the contention of the counsel for the appellant that the proper officer has no such authority - in fact, the legislature has given the proper officer this authority. Judgments quoted like Brand Equity of Delhi High Court, Arise India limited of SC, E COM Coffee Gill OF THE SC, Gherumal of Punjab and Haryana High Court and Suresh Trading Company of SC and argued at length. I have carefully gone these judgments and find that these judgments have no relevance to the factual matrix of this case and of the provisions of GST as none of these judgments have interpreted provisions like Section 29(2)(a) that is a self-contained code. If such cancellation has collateral damage on the buyers' than it their case and they must take up in appropriate forum.

**Hence, the appeal is devoid of any merits and is hereby dismissed. The appellant shall follow the directions given by the adjudication authority in his order impugned before the undersigned.**

**Digitally signed  
JOINT COMMISSIONER (APPEALS)  
ZONE 10**

BEFORE THE ASSISTANT COMMISSIONER, ZONE 10, DELHI GST  
DEPARTMENT, ITO, DELHI

DIN NO. Date: 4th DECEMBER 2024

INDICO Private Limited  
Katra Balli Maran  
Delhi 110 006

GSTIN No.... 123456789

DIN No....xxxxx. Dated 6th October 2024

Show cause notice under section 29(2) of the DGST Act read with CGST Act and  
DGST Rules proposing to cancel your registration certificate w.e.f. 1.7.2017

The scrutiny of your returns shows phenomenal increase in your turnover and the purchases. It also shows that your purchases are more or less from non-genuine tax payers as per AI system of the Department. And on physical visits to your business premises a lot of incriminating documents were found that were confronted to you and you promised to file reply but so far no reply has been filed. The physical search took place on 4th October 2024. The visiting team has filed a report, a copy of which has been shown to you, stating that you have violated many provisions of the Act - you have not used HSN classification of 6 digits even though you were required to, many e way bills did not reconcile with the invoices you issued ultimately, you failed to pay full tax as per GSTR 1 for many months without issuing the debit notes or credit notes as required by section 34, most of the invoices that were examined for output supply were not signed by anybody, e way bills and transporters particulars were left blank, and you have in many returns claimed input tax credit for bills that were not in your books or in your 2B statements and these too were shown to you and above all you outward supplies too were to people against whom there are reports of availing wrongful input tax credit in their respective jurisdictions and these reports too were shown to you.

In fine there has been gross violation of the provisions of the Act and of the Rules. Further most of the returns filed by you are using HSN Codes for output supplies for which there are no corresponding purchases (you being a trading organization only).

In view of the above why should your registration certificate be not cancelled under section 29(2)(a) from the date of physical visit i.e. 4th October 2024 unless you are able to legitimately rebut the above violations.

In view of the above you are required to show cause why should your registration certificate be not cancelled from 4.10.24 based on evidence found against you and for this you are required to file reply with documentary evidence if any and also appear in person with your counsel, if so needed, before the under signed on 9th November 2024 failing which your registration certificate will be cancelled with consequential actions as per due process of law.

And in the meantime your registration certificate is suspended with immediate effect till further orders after due enquiry. You are directed to not to indulge in any business transactions till further orders.

Digitally signed  
Assistant Commissioner  
Zone 10