

BEFORE THE GOODS AND SERVICES TAX APPELLATE TRIBUNAL

IN THE MATTER OF:

NIDHI TRADING CO. LTD. (Appellant)

Versus

ASSISTANT COMMISSIONER, ZONE 1, DGST DEPARTMENT, NEW DELHI (Respondent)

**Appeal under Section 112 of the DGST Act, 2017
Assessment Year: 2022-23**

Filed by:

NIDHI TRADING CO. LTD.
Pritam Pura, New Delhi
Through: Adv. Nidhi Aggarwal
Date: 24th May 2025

FORM GST APL-05

(Appeal to the Appellate Tribunal under Sub-section (1) of Section 112)

1. GSTIN / Temporary ID:

.101010101010

2. Legal Name:

NIDHI TRADING CO. LTD.

3. Trade Name (if any):

NIDHI TRADING CO. LTD.

4. Address of the Principal Place of Business:

Pritam Pura, New Delhi – 110034

5. Order Appealed Against:

a) Order No.: -----

b) Date of communication of order: 26.04.2025

c) Designation and address of officer passing the order: Joint Commissioner (Appeals), Zone 1,
Department of GST, New Delhi

6. Details of Appeal:

- a) Date of filing appeal: 24.05.2025
- b) Period of delay (if any): 29 days
- c) Amount of demand (disputed):
 - i) Tax: INR 12,35,000
 - ii) Interest: INR 7,31,000
 - iii) Penalty: NIL
 - iv) Others: NIL
 - Total: INR 19,66,000
- d) Amount of admitted tax liability: NIL

- **e) Amount of pre-deposit paid:** INR 1,23,500 (10% of disputed tax)
 - **f) Whether the appeal is filed after the prescribed period:** YES
 - **g) If yes, whether an application for condonation of delay is filed:** YES
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7. Grounds of Appeal:

The only ground in the present appeal is that the Appellate Authority wrongly refused to condone delay of 29 days in filing the first appeal under Section 107 of the DGST Act, despite sufficient cause being shown. The delay was unintentional, explained on affidavit, and supported by judicial precedents. The appellant prays for setting aside the order dated 26.04.2025 and remanding the matter for adjudication on merits.

8. Prayer:

It is prayed that the Hon'ble Tribunal may be pleased to set aside the rejection of the appeal on limitation grounds and remand the matter to the first appellate authority for hearing on merits.

9. Verification:

I, **Prem Prakash Aggarwal**, Director of Nidhi Trading Co. Ltd., hereby solemnly affirm that the information given in this appeal is true and correct to the best of my knowledge and belief.

Place: New Delhi

Date: 24th May 2025

Signature: _____

Name: Prem Prakash Aggarwal

Designation: Director

FORM GST APL-02

(Acknowledgement of Appeal by Appellate Tribunal)

1. Appeal No.:

2. Date of Filing:

24.05.2025

3. Name of the Appellant:

NIDHI TRADING CO. LTD.

4. GSTIN / Temporary ID:

....101010101010

5. Date of Order Appealed Against:

26.04.2025

6. Name and Designation of Officer Passing the Order:

Joint Commissioner (Appeals), Zone 1

7. Office Address of the Appellate Tribunal:

8. Remarks (if any):

Delay of 29 days. Application for condonation of delay enclosed with supporting affidavit.

9. Signature and Seal of Officer:

INDEX OF DOCUMENTS

IN THE MATTER OF:
NIDHI TRADING CO. LTD. (APPELLANT)
VERSUS
ASSISTANT COMMISSIONER, ZONE 1, DGST DEPARTMENT, NEW DELHI (RESPONDENT)

Main Documents

S. No.	Particulars	Annexure / Exhibit No.	Page No.
A	Appeal Memo before the Hon'ble GST Appellate Tribunal	Main Appeal	
B	Application for Condonation of Delay of 29 days	Application	
C	Affidavit of Shri Prem Prakash Aggarwal in support of the appeal and condonation	Affidavit	
D	Certificate of Advocate in support of the appeal and condonation)	Certificate	

Filed by:
ADV. NIDHI AGGARWAL
(Authorized Counsel for the Appellant)
NIDHI TRADING CO. LTD.
PRITAM PURA, NEW DELHI
GSTIN:1010101010
Date: 24th May 2025
Place: New Delhi

BEFORE THE GOODS AND SERVICES TAX APPELLATE TRIBUNAL

NIDHI TRADING CO. LTD. (Appellant)
GSTIN: ...1010101010

Versus

STATE TAX OFFICER (DGST) (Respondent)

Appeal No. ----- of 2025 (Original Appeal)

1. Preliminary Objections

1. This appeal challenges the order dated **26.04.2025** passed by the **Joint Commissioner (Appeals), Zone 1, DGST**, whereby the appellant's statutory appeal under **Section 107(1)** of the DGST Act was dismissed solely on the ground that it was filed **29 days beyond the prescribed period** of three months from the date of the adjudication order dated 26.12.2024.

2. Statement of Facts

1. The Appellant, **Nidhi Trading Co. Ltd.**, is a registered taxpayer under the Delhi Goods and Services Tax Act, 2017 (GSTIN:1010101010), engaged in the business of trading electronic and audio-visual equipment.
2. The Department conducted an audit of the Appellant's records under **Section 65 of the DGST Act** for the financial year 2022-23. Subsequently, a **Show Cause Notice (SCN)** dated **16.10.2024** was issued under **Section 73 of the DGST Act**, alleging certain discrepancies, and a personal hearing was scheduled "on or before 26.10.2024".
3. Due to internal staff transition and communication lapses (detailed in the appeal), the Appellant did not file a written reply to the SCN and did not attend the personal hearing.
4. On **26.12.2024**, an **adjudication order** was passed ex parte under **Section 73**, creating a demand of Rs. 12,35,000 in tax and Rs. 7,31,000 in interest, with further directions for recovery and potential penalty proceedings.
5. The Appellant, upon receipt of the order, made a **mandatory pre-deposit of 10% of the disputed tax amount (Rs. 1,23,500)** on **22.01.2025** and **handed over the appeal documentation to its counsel on 23.01.2025**.
6. However, due to professional oversight and administrative error on the part of the Appellant's counsel, the appeal before the **first appellate authority (Joint Commissioner (Appeals))** was filed only on **26.04.2025**, which is **29 days beyond the prescribed 3-month limitation period** under Section 107(1) of the DGST Act.
7. The first appellate authority **rejected the appeal solely on the ground of delay**, observing that the limitation had expired.
8. The Appellant now **approaches this Hon'ble GST Appellate Tribunal under Section 112** of the DGST Act, challenging the dismissal order dated **26.04.2025**, on the sole ground that the delay in

filing the first appeal was procedural and non-malicious,—and should have been condoned in the interest of justice.

9. The Appellant humbly submits that it has always acted in good faith and without any intention to delay the proceedings. The lapse occurred due to circumstances beyond its control, and the substantive rights of appeal ought not to be defeated on technical grounds.

3. Sole Ground of Appeal: Condonation of Delay

1. The appellant's contention is focused on the **single legal issue**: whether the **29-day delay** in filing the appeal before the first appellate authority deserved to be condoned in the facts and circumstances of the case. The appellant respectfully submits that the delay was **procedural, not deliberate**. The first appellate authority erred in law and failed to exercise its discretion **under the proviso to Section 107(4)**, which authorizes condonation of delay up to one additional month where "sufficient cause" is shown.

4. Legal Framework

1. Section **107(1)** of the DGST Act provides a limitation period of **three months** to file an appeal. **Section 107(4)** permits **one additional month** for condonation, provided sufficient cause is demonstrated. Indian jurisprudence has consistently emphasized that **substantial justice** must not be defeated by **technicalities**, and that **bona fide procedural delays** must be condoned if no malafide or gross negligence is found.

5. Justification and Factual Explanation

The timeline and facts relevant to the delay are as follows:

- The adjudication order under Section 73 was passed on **26.12.2024**.
- The appellant **made the mandatory pre-deposit of 10%** of the disputed tax on **22.01.2025**.
- The complete documents for filing appeal were **handed over to the appellant's advocate on 23.01.2025**.
- The appeal, however, was eventually filed on **26.04.2025**, exceeding the 3-month limitation by **29 days**.

The delay occurred **solely due to oversight by the appellant's legal counsel**, who failed to track the deadline due to workload congestion. The appellant acted with due diligence and had taken all steps necessary to file on time. There is **no element of willful default, suppression, or delay tactic** on the part of the company.

6. Reason for Non-response to SCN and Non-attendance at Hearing

The appellant respectfully submits the following reasons for not filing a reply to the SCN and not attending the personal hearing:

- **Internal Transition and Staff Exit:** The company was undergoing a change in its compliance team. The GST accountant who had handled all statutory notices **resigned abruptly**, and due to poor transition, critical files were not flagged for follow-up.
- **Lack of Awareness of Consequence:** The director, a non-legal person, was **unaware that failure to respond to the SCN would result in an ex parte final order**. The absence was not due to defiance but due to a **genuine misunderstanding** of the process.
- **Clean Compliance History:** The company has an otherwise **spotless GST compliance record**, and no adverse inference can be drawn from this single procedural lapse.
- **Prompt Post-Facto Compliance:** Once the lapse was realized, the company **immediately took steps to comply** by making the pre-deposit and preparing the appeal without any further delay.

In light of these facts, the non-response to the SCN and absence at the hearing were **neither willful nor deliberate** and must not prejudice the company's right to fair adjudication.

7. Judicial Precedents Supporting Condonation

1. M/s B.R. Singh & Co. v. Commissioner, Central Excise & GST

Citation: 2015 (320) E.L.T. 837 (Jharkhand HC)

Court: Jharkhand High Court

Ratio Decidendi:

- In this case, there was a **delay of 536 days** in filing the appeal, which occurred due to illness of the counsel and the appellant's lack of knowledge regarding procedural timelines.
- The High Court held that the **litigant should not suffer for the fault of the advocate**, especially when sufficient cause is established.
- It was emphasized that **technicalities should not defeat substantial justice**, and condonation must be granted when the party has acted bona fide.

Relevance to GST: Though under Central Excise, the ruling is routinely cited in GST-era appeals regarding condonation.

2. Improvement Trust, Ludhiana v. Ujagar Singh

Citation: (2010) 6 SCC 786

Court: Supreme Court of India

Ratio Decidendi:

- The Supreme Court held that **liberal interpretation must be given to the expression 'sufficient cause'** used under limitation statutes.
- Courts must adopt a **justice-oriented approach** and should not dispose of appeals merely on delay if the appellant was not grossly negligent.
- The Court observed: *"Every day's delay need not be explained"*, and the judiciary must not take a pedantic approach to limitation when justice is at stake.

Relevance to GST: Frequently relied on by GST Appellate Authorities and High Courts in condonation of delay under Section 107(4).

3. Collector, Land Acquisition v. Katiji & Ors.

Citation: (1987) 2 SCC 107

Court: Supreme Court of India

Ratio Decidendi:

- Landmark ruling establishing **seven guiding principles** for condoning delay, including that:
 - Refusing to condone delay can result in **grave miscarriage of justice**.
 - There is no presumption that delay is deliberate.
 - **Every litigant does not stand on equal footing** and state/public bodies deserve pragmatic treatment.
- This case is a cornerstone for condonation jurisprudence.

Relevance to GST: Cited as a foundational precedent for “sufficient cause” under Section 107(4) CGST Act.

4. M/s Vishnu Aroma Pouches Pvt. Ltd. v. State of U.P. & Ors.

Citation: 2021 (50) G.S.T.L. 9 (All.)

Court: Allahabad High Court

Ratio Decidendi:

- The Court allowed condonation of **26 days’ delay** in filing an appeal under Section 107 of the CGST Act.
- The Court held that **a litigant should not be denied hearing on the grounds of a minor delay**, especially when they have already complied with the pre-deposit requirement and there is no mala fide intent.
- The delay was explained as due to procedural confusion during the transition to GST.

Relevance to GST: Direct application under Section 107 CGST Act; strengthens argument that delays under one month can and should be condoned.

5. M/s D. G. Corporation v. Union of India

Citation: 2020 (35) G.S.T.L. 3 (Bom.)

Court: Bombay High Court

Ratio Decidendi:

- The petitioner filed the appeal late and sought condonation under Section 107(4). The department objected on grounds of jurisdictional limitation.
- The Court held that **so long as the delay is within the maximum permissible period (3 months + 1 month grace), it can be condoned**, and the appellate authority cannot apply strict interpretation when **sufficient cause is shown**.
- The High Court emphasized that GST is **still evolving**, and compliance errors in the early years should be viewed more leniently.

Relevance to GST: Supports discretionary power under Section 107(4) and good-faith interpretation during GST transition phase.

Summary Table

Case Name	Court	Key Holding
B.R. Singh & Co. v. CCE	Jharkhand HC	Delay due to counsel illness condoned; litigant not punished for advocate's lapse
Improvement Trust v. Ujagar Singh	Supreme Court	Delay must be liberally construed to serve justice
Collector v. Katiji	Supreme Court	Landmark ruling favoring condonation over procedural rigidity
Vishnu Aroma v. State of U.P.	Allahabad HC	Delay of 26 days condoned under Section 107 CGST
D.G. Corporation v. UOI	Bombay HC	GST being new, procedural delay to be viewed with leniency

8. Prayer for Relief

In view of the above, the Appellant respectfully prays that this Hon'ble Tribunal may be pleased to:

1. **Set aside the order dated 26.04.2025** passed by the Joint Commissioner (Appeals), Zone 1, DGST;
2. **Hold that the 29-day delay** in filing the appeal was due to sufficient cause and was neither willful nor mala-fide;
3. **Remand the matter back** to the appellate authority to hear the appeal on merits;
4. Pass any such further order(s) as may be deemed just and proper in the interest of justice.

Place: New Delhi

Date: 24.05.2025

BEFORE THE JOINT COMMISSIONER (APPEALS), ZONE 1
DEPARTMENT OF GOODS AND SERVICES TAX, NEW DELHI

IN THE MATTER OF:
NIDHI TRADING CO. LTD.
GSTIN: .1010101010
...Appellant

VERSUS

THE ASSISTANT COMMISSIONER
Zone 1, Department of GST, New Delhi
...Respondent

**APPLICATION UNDER PROVISIO TO SECTION 107(4) OF THE CGST/DGST ACT, 2017 FOR CONDONATION
OF DELAY IN FILING APPEAL**

To,
The Joint Commissioner (Appeals), Zone 1
Department of Goods and Services Tax
New Delhi

The Appellant respectfully submits as under:

1. That the Appellant is a registered person under the Delhi Goods and Services Tax Act, 2017 and is engaged in the business of trading in electronic and audio-visual equipment.
2. That the Respondent issued an order dated 26.12.2024 under Section 73 of the DGST Act against the Appellant, alleging wrongful availment of Input Tax Credit (ITC) and raising a demand of tax and interest totaling Rs. 19,66,000.
3. That as per the provisions of Section 107(1) of the DGST Act, the Appellant was entitled to file an appeal within three months from the date of communication of the order, i.e., on or before 26.03.2025.
4. That the Appellant deposited the mandatory pre-deposit of 10% of the disputed tax amount on 22.01.2025 and handed over the complete documentation to its legal counsel on 23.01.2025 for timely filing of appeal.
5. That due to an inadvertent professional oversight and procedural lapse by the legal counsel's office, the appeal could not be filed within the prescribed three-month period.
6. That the Appellant was under the bona fide impression that the counsel had filed the appeal in time, having handed over all necessary documents and made the pre-deposit.
7. That the delay was not caused by negligence or mala fide on part of the Appellant, and was purely due to professional congestion and miscommunication during the financial year-end (March closing), which is traditionally a period of extraordinary workload for tax professionals.
8. That the appeal has now been filed on 26.04.2025, with a delay of 29 days beyond the normal limitation period under Section 107(1).
9. That the proviso to Section 107(4) empowers this Hon'ble Authority to condone a delay of up to one month upon sufficient cause being shown. The Appellant respectfully submits that the cause shown herein is bona fide and sufficient under law.

PRAYER

In view of the foregoing, the Appellant respectfully prays that this Hon'ble Authority may be pleased to:

1. **Condone the delay of 29 days** in filing the appeal against the adjudication order dated 26.12.2024, in exercise of powers under the proviso to Section 107(4) of the DGST Act; and
2. **Direct that the appeal be registered and heard on merits** in accordance with law; and
3. Pass any other or further orders as may be deemed just and proper in the facts and circumstances of the case.

Place: New Delhi

Date: 24.04.2025

Filed by:

ADV. NIDHI AGGARWAL

(Authorized Counsel for the Appellant)

Nidhi Trading Co. Ltd.

Through: **Prem Prakash Aggarwal, Director**

AFFIDAVIT OF DIRECTOR

I, **Prem Prakash Aggarwal**, Director of Nidhi Trading Co. Ltd., solemnly affirm and state as follows:

1. That I am the Director of the appellant company and am duly authorized to swear this affidavit.
2. That the delay of 29 days in filing the appeal before the Joint Commissioner (Appeals) was due to the inadvertent delay on part of the company's legal counsel.
3. That the company made the required pre-deposit of 10% on 22.01.2025 and handed over the documents to counsel on 23.01.2025.
4. That the company did not willfully ignore any SCN or personal hearing notice but missed deadlines due to administrative lapses and staff transition.
5. That I respectfully request that the delay may be condoned in the interest of justice.

DEPONENT

Verification:

Verified at New Delhi on this 24th day of April, 2025, that the contents of this affidavit are true to my knowledge and belief.

CERTIFICATE BY ADVOCATE (SUPPLEMENTARY)

I, **Adv. Nidhi Aggarwal**, Advocate for the appellant, do hereby respectfully submit as under:

1. That I was instructed by **Nidhi Trading Co. Ltd.** to file an appeal before the Joint Commissioner (Appeals), Zone 1, DGST, against the order dated 26.12.2024 passed under Section 73 of the DGST Act.
2. That the appellant furnished all necessary documents, including proof of pre-deposit and a duly prepared affidavit explaining the delay in filing, on **23.01.2025**.
3. That the said affidavit was intended to be finalized and filed along with the appeal memorandum. However, due to **unintentional oversight by my office staff**, the affidavit was **inadvertently omitted from the set of documents uploaded/submitted** before the appellate authority.
4. That during this period (February–March 2025), I was handling numerous compliance matters related to **financial year-end (March closing)** for multiple clients, resulting in **exceptional professional workload** and time constraints in final verification of appeal filings.
5. That I take full professional responsibility for this lapse. The omission was not due to any fault or negligence on the part of the appellant, who acted in good faith and within timelines.
6. That I respectfully request this Hon'ble Tribunal to kindly **condone the procedural omission** and permit the supporting affidavit (now submitted afresh with this appeal) to be taken on record for full and fair adjudication.

The above is submitted in good faith and with due professional responsibility.

Place: New Delhi

Date: 24th May 2025

Digitally Signed

ADV. NIDHI AGGARWAL

(Advocate for the Appellant)

Enrollment No.-D/12859/2022

BEFORE THE ASSISTANT COMMISSIONER ZONE 1 DGST DEPARTMENT NEW DELHI

IN THE MATTER OF

**NIDHI TRADING CO LIMITED
PRITAM PURA
NEW DELHI
GSTIN NO.... 10101010101
AY 2022-23**

DRC 01

DIN NO. 3333333333 16TH OCTOBER 2024

SHOW CAUSE NOTICE UNDER SECTION OF THE DGST ACT 2017 FOR THE YEAR 2022-23

An audit was conducted under section 65 at the business premises of the tax payer between 1.6.2024 to 1.8.24. Audit report and observations made therein have been forwarded to the taxpayer and he has acknowledged the same.

The taxpayer has been engaged in selling audio visual equipments for commercial projects. He has purchased audio video equipment worth Rs 40 lakhs from one Dimple Trading Co and sold the same to an SEZ in Delhi. He has raised local bills showing NIL tax for supplies to SEZ unit. There is no other supporting documents shown to the audit team except these documents.

On inquiries made it has been noticed that Dimple Trading Co is engaged in fake billing cases and many cases are already pending against that firm. Further in the present case the total delivery provided by Dimple Trading Co. to the tax payer is under dubious conditions and many parts of AV have been supplied in piecemeal basis which in this industry is not customary. Further there are no HSN codes mentioned in the tax invoices issued by the supplier, Dimple trading co. Full payment is yet to be made even though the supplies has allegedly been made vide invoice DIM 004 dated 1.5.22 - that is over 180 days payment is not made worth Rs 25,00,000/- The taxpayer has claimed full input tax credit.

There is another issue. The taxpayer as Principal has sent jigs and dies to a registered job worker XYZ & Co worth Rs 750,000/- as per stock records and other books examined. The taxpayer has claimed input tax credit on this amount and even though these were supplied on 1.4.2010 to the job worker the same have not yet been returned defying the time limit of 3 years. Further there is no delivery challan reported on GSTTR 1 which is the mandate of section 19 read with Section 143 and Valuation Rules on this issue.

Hence, the taxpayer has claimed wrongful input tax credit or tax is short paid by him on the above accounts resulting in initiation of action under section 73. The tax payer is required to show cause on the following issues to show why tax interest and penalty be not imposed on the tax payer for gross violation of law:

- 1). Why should you supply to SEZ be not taxed at regular tax rates @ 28 percent since you have failed to bring on record anything to show that SEZ was authorised why the prescribed authority to deal in these products or this was for authorised usage.
- 2). Why input tax credits for purchases from Dimple Trading Co be not rejected for violation of conditions of Section 16(2) - you have to bring on record the documentary evidence to prove that you are eligible to claim input tax credit on such purchases and you are able to discharge your onus under Section 155 of the DGST Act?
- 3). You had sent the jigs dies and moulds to a registered job worker worth Rs 750,000/- but in your 3B there is no such dispatched reported in any head which is the mandate of the law. Further the dies moulds etc have not been returned within the time ;prescribed i.e. 3 years . Hence, you are required to show why should your claim of ITC be not rejected for goods or capital goods sent to the job worker in violation of the law? Why interest and penalty be also not imposed?

Your reply to this show cause notice must be received by the undersigned along with your presence for personal hearing on or before 26th October 2024 failing which it shall be presumed that you have nothing to say in the matter.

digitally signed
assistant commissioner - Zone 1

BEFORE THE ASSISTANT COMMISSIONER ZONE 1 DGST DEPARTMENT NEW DELHI

IN THE MATTER OF

**NIDHI TRADING CO LIMITED
PRITAM PURA
NEW DELHI
GSTIN NO.... 10101010101
AY 2022-23**

DRC 07

DIN NO. 3333333333 26TH DECEMBER 2024

SHOW CAUSE NOTICE UNDER SECTION OF THE DGST ACT 2017 FOR THE YEAR 2022-23

THE TAX PAYER WAS ISSUED AND SERVED THE SHOW CASUSE NOTICE UNDER SECTION 73 OF THE DGST ACT ON 16TH OCTOBER. THE NOTICE WAS SENT ON PORTAL AND ALSO PHYSICALLY SERVED ON THE DIRECTOR OF THE COMPANY SHRI PREM PRAKASH AGGARWAL AS PER RECORDS. NO REPLY HAS BEEN FILED TO THE SHOW CASUE NOTICE AS PER PORTAL. EVEN NO PHYSICAL REPLY HAS BEEN FILED.

An audit was conducted under section 65 at the business premises of the tax payer between 1.6.2024 to 1.8.24. Audit report and observations made therein have been forwarded to the taxpayer and he has acknowledged the same.

The taxpayer has been engaged in selling audio visual equipments for commercial projects. He has purchased audio video equipment worth Rs 40 lakhs from one Dimple Trading Co and sold the same to an SEZ in Delhi. He has raised local bills showing NIL tax for supplies to SEZ unit. There is no other supporting documents shown to the audit team except these documents.

On inquiries made it has been noticed that Dimple Trading Co is engaged in fake billing cases and many cases are already pending against that firm. Further in the present case the total delivery provided by Dimple Trading Co. to the tax payer is under dubious conditions and many parts of AV have been supplied in piecemeal basis which in this industry is not customary. Further there are no HSN codes mentioned in the tax invoices issued by the supplier, Dimple trading co. Full payment is yet to be made even though the supplies has allegedly been made vide invoice DIM 004 dated 1.5.22 - that is over 180 days payment is not made worth Rs 25,00,000/- The taxpayer has claimed full input tax credit.

There is another issue. The taxpayer as Principal has sent jigs and dies to a registered job worker XYZ & Co worth Rs 750,000/- as per stock records and other books examined. The taxpayer has claimed input tax credit on this amount and even though these were supplied on 1.4.2019 to the job worker the same have not yet been returned defying the time limit of 3 years. Further there is no delivery challan reported on GSTTR 1 which is the mandate of section 19 read with Section 143 and Valuation Rules on this issue.

Hence, the taxpayer has claimed wrongful input tax credit or tax is short paid by him on the above accounts resulting in initiation of action under section 73. The tax payer is required to show cause on the following issues to show why tax interest and penalty be not imposed on the tax payer for gross violation of law:

- 1). Why should you supply to SEZ be not taxed at regular tax rates @ 28 percent since you have failed to bring on record anything to show that SEZ was authorised why the prescribed authority to deal in these products or this was for authorised usage.
- 2). Why input tax credits for purchases from Dimple Trading Co be not rejected for violation of conditions of Section 16(2) - you have to bring on record the documentary evidence to prove that you are eligible to claim input tax credit on such purchases and you are able to discharge your onus under Section 155 of the DGST Act?
- 3). You had sent the jigs dies and moulds to a registered job worker worth Rs 750,000/- but in your 3B there is no such dispatched reported in any head which is the mandate of the law. Further the dies moulds etc have not been returned within the time ;prescribed i.e. 3 years . Hence, you are required to show why should your claim of ITC be not rejected for goods or capital goods sent to the job worker in violation of the law? Why interest and penalty be also not imposed?

Your reply to this show cause notice must be received by the undersigned along with your presence for personal hearing on or before 26th October 2024 failing which it shall be presumed that you have nothing to say in the matter.

THE TAX WAS ISSUED FOUR NOTICES THAT WERE DULY PUT ON THE PORTAL AND ALSO PHYSICALLY SERVED ON THE DIRECTOR SHRI PREM RAKASH AGGARWAL AS PER RECORDS AVAILABLE. UNFORTUNATELY EXCEPT ONCE ON 9 THE DECEMBER 2024 WHEN ONE ACCOUNTANT OF THE COMPANY AND SOUGHT THE DATE WHICH WAS DULY GIVEN FOR 26TH DECEMBER 2024, ON NO OTHER HEARING FIXED ANYONE ATTENDED. IT SEEMS THE TAXPAYER HAS NOTHING TO SAY IN THE MATTER AND ACCORDINGLY I PROCEED TO DECIDE THE MATTER EX PARTE WITHOUT ANY FURTHER OPPORTUNITY.

- 1). THE PURCHASES FROM DIMPLE TRADING CO AS PER AI SYSTEM OF THE DEPARTMENT ARE FROM A NON EXISTENT FIRM WHO HAVE ALSO NOT FILED RETURNS INCLUDING GSTR 1 AND 3B FOR THE LAST SIX MONTHS AND CANCELLATION OF REGISTRATION NOTICE HAS BEEN ISSUED

UNDER SECTION 29(2) OF THE DGST ACT WHICH HAS SO FAR BEEN NOT REPLIED, FURTHER THE TAXPAYER DID NOT PAYMENT FOR OVER 180 DAYS TO THIS FIRM AND STILL CLAIMED INPUT TAX CREDIT. HENCE, THE INPUT TAX CREDIT CLAIMED IN 3 B RETURN WITHOUT SATISFYING THE CONDITIONS OF SECTION 16(2) IS HEREBY REJECTED AND DISALLOWED AND ADDED BACK TO THE OUTPUT TAX LIABILITY OF THE TAXPAYER @ 28 PERCENT WHICH WORKS OUT TO 11,20,000/- PLUS INTEREST OF RS 6,66,000/-

2) FURTHER THE MATERIALS SDNT GO JOB WORKER FOR RS 750,000/- ON WHICH ITC WAS CLAIMED @ 18 PERCENT IS ALSO REJECTED AS THE SAME WAS REPORTED IN THE RETURNS AND ALSO THE MATERIALS HAVE NOT BEEN RECEIVED WITHIN THE TIME PRESCRIBED FOR CAPITAL GOODS AS PER SECTION OF THE DGST ACT AND HENCE THE INPUT TAX CREDIT CLAIMED BY THE TAXPAYER ON 30.6.19 IS DISALLOWED AND ITS OF 135000 / = PLUS INTEREST OF RS 65000/- IS LEVIED.

THUS TOTAL TAX LIABILITY IS CALCULATED AS ABOVE I.E. TOTAL TAX IS 12,35,000/- AND INTEREST RS 731000/-

PENALTY PROCEEDINGS SHALL BE INITIATED SEPARATELY AS PER DUE PROCESS OF LAW.

THE DEALER IS DIRECTED TO DEPOSIT THE ABOVE SUMS WITHIN 15 DAYS FROM THE DATE OF THIS ADJUDICATION ORDER I.E. ON OR BEFORE 15TH JANUARY 25

digitally signed
assistant commissioner - Zone 1

BEFORE THE JOINT COMMISSIONER (APPEALS) ZONE 1, DGST DEPARTMENT NEW DELHI

**IN THE MATTER OF NIDHI TRADING COMP,ANY LIMITED
PRITAM PURA
NEW DDELHI**

**GSTIN NO.... 10101010101
AY 2022-23**

APPEEALLATE ORDER UNDER SECTION 107(9) OF THE DGST ACT 2017

**PRESENT FOR THE TAX PAYER: ADV NIDHI AGGARWAL WITH DIRECTOR PREM PARKASH
AGGARWAL FOR THE COMPANY APPELLANT**

Pursuant to the impugned order passed under section 73 dated 26.12.25 of the DGST by the proper officer Zone 1, the appellant has preferred the present appeal under section 107(1) of the DGST Act. The contents of the appeal have been gone through by the undersigned and it is notice that the appellant has failed to even explain how the appellant was aggrieved by the order which is the precondition for exercising the right of appeal under section 107(1) of the DGST Act.

The grounds are simply stating that the order of the proper officer is wrong on facts, illegal in law and has been passed in gross violation of the principles of natural justice. None the grounds elaborates on any of the issues so canvassed in grounds of appeal.

Without going into the merits of the case, it is noticed that the appellant has filed appeal behind the statutory limitation of 3 months i.e. the appellant has filed on 26.4.2025 whereas the appeal should have been filed on or before 26.3.25.

I have carefully gone through the contents of the application for condonation of delay and the only reason mentioned is that the papers could not be attended by the counsel for the appellant resulting in delay in filing the appeal. It is noteworthy that the pre-deposit of 10 percent of the tax was made by the appellant on 22.1.24 and handed over to the counsel. There is no affidavit from the counsel nor any further explanation.

Heard Adv. Nidhi Aggarwal. She has pleaded that since the pre-deposit has been made the appeal should be heard on merits. When questioned the Director stated that the papers were handed over to the counsel I person on 23.1.24 after the deposit of 10 percent cash on

22.1.24. When questioned why did the company not follow up for filing of the appeal the Director pleaded ignorance and stated that the matter was in the hands of a competent professional and hence it was not followed up. When the counsel Adv Nidhi Aggarwal was again questioned she did not give any satisfactory explanation for the delay after the limitation period of 25.3.25 was over - and that is the delay that needed to be explained.

When I saw the history of the case it is seen that even the show cause notice was not replied, the proceedings before the proper officer for adjudication were not attended inspite of service of 5 notices except one when adjournment was sought, a period of two months was wasted resulting in ex party order and even after this the appellant and their counsel were negligence and took the limitation and delay condonation for granted.

If in such cases where negligence is writ large on the face of the order any indulgence is shown that will be against the public policy of limitation itself.

Hence, the application for condonation of delay of 29 days is dismissed and the appeal itself is dismissed as time barred,. Hence, the appeal is dismissed and the proper officer is free to proceed with recovery of dues as per due process of law.

DIGITALLY SIGNED

joint commissioner (Appeal) Zonde 1