

**INDEX****IN THE COURT OF GOODS AND SERVICES TAX, TRIBUNAL****IN THE CASE OF M/S R .K.KHANNA & CO.****KAROL BAGH, NEW DELHI****RAJ 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 -07AAFBPXXXX1ZM
2. Name of the appellant -R.K. KHANNA & Co.
3. Address of the appellant – Karol Bagh
4. Order appealed against- XXXXXXXXXXXX Number-XXXXX Date-06.02.2025
5. Name and Address of the Authority passing the order appealed against -Joint Commissioner (Appeal)
6. Date of communication of the order appealed against -06.02.2025
7. Name of the representative -CA Renu Sharma
8. Details of the case under dispute: Rejection of Input tax Credit
  - (i) Brief issue of the case under dispute – In Bill to Ship To Transaction one Party is unregistered due to which ITC disallowed.
  - (ii) Description and classification of goods/ services in dispute: Glassware
  - (iii) Period of dispute: 2022-23
  - (iv) Amount under dispute: 7,25,760

Description	Central tax	State/ UT tax	Integrated tax	Cess
a) Tax/ Cess			7,25,760	
b) Interest			2,39,500	
c) Penalty			72,576	
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	Ce ss	Total amount
	a) Tax/ Cess			7,25,760		7,25,760

	Amount demanded/ rejected >, if any (A)	b) Interest			2,39,500	2,39,500		
		c) Penalty			72,576	72,576		10,37,837
		d) Fees				0		
		e)						

		Other charges					0	
	Amount under dispute (B)	a) Tax/ Cess			7,25,760		7,25,760	
		b) Interest			2,39,500		2,39,500	
		c) Penalty			72,576		72,576	10,37,837
		d) Fees					0	
		e) Other charges					0	
	Amount admitted (C)	a) Tax/ Cess			0		0	
		b) Interest			0		0	
		c) Penalty			0		0	0
		d) Fees					0	

		e) Other charges				0	
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14. Details of payment of admitted amount and pre-deposit: (a)Details of amount payable :

Particulars			Central tax	State/UT tax	Integrated tax	Cess	Total amount	
	a) Admitted amount	Tax/ Cess			0		0	0
		Interest			0		0	
		Penalty			0		0	

							0	
		Fees					0	
		Other charges					0	

	b) Pre-deposit [10% of disputed tax/cess but not exceeding Rs.20 crore each in respect of CGST, SGST or cess or not exceeding Rs.40 crore in respect of IGST and Rs.20 crore in respect of cess]	Tax/ Cess			72,576		72,576	72 576
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(b) Details of payment of admitted amount and [pre-deposit of 10% of the disputed tax and cess but not exceeding Rs. 50 crore each in respect of CGST, SGST or cess or not exceeding Rs.40 crore in respect of IGST and Rs. 20 crores 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	72,576	Cash Ledger	MANXX XX	72,576			
			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: 0

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
1	2	3	4	5	6	7] <sup>51</sup>
	Admitted amount [in the Table in sub-clause (a) of clause 14 (item (a))]					

### VERIFICATION

I, RAJ 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 .

Place: New Delhi

Date :10.04.2025

Signature

RAJ KUMAR

PROPRIETOR

**FORM GST APL – 02**

**[See rule 108(3)]**

**Acknowledgment for submission of appeal**

Name of the Applicant –RAJ KUMAR

GSTN-07AAFBPXXXX1ZM

Your appeal has been successfully filed against ARN xxxxxxxxxxxxxx

1. Reference Number- xxxxxxxxxxxxxx
2. Date of filing – 10.04.2025
3. Time of filing -12:45 P.M.
4. Place of filing – NEW DELHI
5. Name of the person filing the appeal- RAJ KUMAR
6. Amount of pre-deposit- 72,576
7. Date of acceptance/rejection of appeal- ACCEPTED
8. Date of appearance Date: Time: 15.04.2025 AT 12:30 P.M.
9. Court Number/ Bench Court: Bench: xxxxxxxx

Place: NEW DELHI

Date:15.04.2025

SIGNATURE

NAME- XXXXXX

DESIGNATION

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

**GOODS AND SERVICES TAX TRIBUNAL****FEE CHALLAN****Paid on 10.04.2025**

TAX PAYABLE	FEE	DEBIT ENTRY	TOTAL
725760	8000	ABEXMXXXX	8000

Rupees 1000 for every 1 Lakh

GOODS AND SERVICES TAX PAYMENT RECEIPT							
CPIN:xxxxxxxx		Deposit Date - 10/04/2025		Deposit Time : 12:53:25		e Scroll:NA	
Payment particulars							
CIN: CXXXXXXXX		Name of the Bank : Bank of Kanyakumari			BRN:XXXXXXXXXX		
Details of tax payer :							
GSTN 07XXXXXXXXXX		Email ID XXXXXXXX@gmail.com			Mobile		
No.98XXXXXXXXXX							
Name:RAJ KUMAR		Address:XXXXXXXXXXXXXXXXXX					
Reason - Any other payment							
Details of Deposit (All amount in Rupess)							
Government	Major Head	Minor Head					
		Tax	Interest	Penalty	Fee	Others	Total
Government of India	CGST						
	IGST	72576					72576
	CESS	-					
	Sub Total	72576	0	0	0	0	72576
Delhi	SGST						
Total Amount							72576
Total Amount in Words							
Mode of Payment : Net Banking , UBI							

**Before the Hon'ble Goods and Services Tax Appellate Tribunal**

New Delhi

**In the matter of:**

R K Khanna & Co.

Karol Bagh

...Appellant

**Versus**

Commissioner DGST

...Respondent

**Appeal No. XXXXXX**

**Date of Hearing: 07.06.2025**

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**Application for Production of Additional Evidence by the Appellant**

**To,**

The Hon'ble Members of the GST Appellate Tribunal,  
Delhi

**The Appellant respectfully submits as under:**

1. That the appellant has filed the above-mentioned appeal before this Hon'ble Tribunal against the order dated 06.02.2025 passed by First Appellate Authority.
2. That during the adjudication/appellate proceedings before the lower authority, the appellant was unable to produce certain relevant documents/evidence due to non-availability of records at the relevant time.

3. That the following additional evidence/documents are now sought to be produced, which are material and relevant for just and fair disposal of the present appeal:

List of Documents -

(a) Declaration by the Supplier M/s Protector & Co. for payment of Tax

(c) Ledger of Protector & Co.

(c) LR receipt

4. That the said evidence could not be produced earlier due to unavailability of the same.
5. That the production of this additional evidence is essential to substantiate the appellant's contentions to prove that transaction was genuine.
6. That the production of additional evidence is being made in accordance with Rule 5 of the GST Appellate Tribunal (Procedure) Rules, 2023 (or relevant applicable provision).

### **Prayer**

In view of the above, it is most respectfully prayed that this Hon'ble Tribunal may kindly:

- a) Allow the appellant to produce the additional evidence/documents as mentioned above; and
- b) Pass such other order(s) as deemed fit and proper in the interest of justice.

**Place:** New Delhi

**Date:** 10.04.2025

**Signature of Appellant**

**Name:** RAJ KUMAR

**Proprietor**

**Mobile:**98725CXXXX

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

IN THE MATTER OF:

PROP: RAJKUMAR

R.K.KHANNA & CO.

GSTN: 07AAFBPXXXX1ZM

TELIWADA

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 7, dated 06.02.2025

Disputed Demand: 7,25,760

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

Respectfully sheweth:

1. That feeling aggrieved with the order of the first AA dated 06.02.2025 whereby He rejected the transaction of Bill to Ship to model on the basis of the one party being unregistered, the Appellant is filing the present appeal before this Hon'ble Tribunal. Order of First AA is annexed.
2. Audit Duration was of 3 Months but Audit completed by the Officers within 6 months and no approval for the extension from the Assistant Commissioner provided.
3. The order by the Adjudicating Authority was received on 06.11.2024 and Appeal is being filed to on 12.12.2024 to First Appellate Authority (within 3 months' time limit)
4. The order from First AA issued on 06.02.2025 and the appeal has been filed against the order of the first AA dated 06.02.2025 on 30.04.2025 (within 3 months' time limit). therefore, the appeal is filed within the limitation period as prescribed under Section 107;
5. The appeal has been signed by the Proprietor of the firm,
6. . Required fee as per Rule 110 has been affixed and
7. All the annextures to this appeal are true copies of the originals.
8. Power of Attorney in the favour of the arguing counsel is also annexed.
9. Pre-deposit is paid as required in this case.



### **Brief Factual Matrix**

The appellant is engaged in the business of trading in glass and glass ware products and is the sole proprietor of the firm. The appellant has filed all the returns and discharged his tax liability as per law.

Based on an audit under section 65, the proper officer issued a show cause notice dated 20.10.24 proposing to disallow input tax credit of Rs.16,31,700/- on two counts, namely:

,

1. There were some typographical errors in the e-way bills generated that were explained to the proper officer and he was satisfied and demand of Rs.9,05,940 on that score was dropped in the final adjudication order dated 06.11.2024 as passed by the proper officer. Hence, that issue did not arise before the first appellate authority.
2. The key issued raised by the proper officer in his adjudication order where the demand has been upheld by the first appellate authority vide his order dated 06.02.2025 against which the appellant feeling aggrieved has filed this appeal before this Hon'ble Tribunal is that the proper officer came to the conclusion that since the recipient was an unregistered person hence provisions of bill to ship transactions as envisaged in Section 10(1)(b) of the IGST Act 2017 ( extract of this provision is annexed as **Annexure A14**. the appellant

could not be given relief for the input tax credit claimed. This ground was also upheld by the first appellate authority. Hence, this appeal to seek justice and fair play. Copy of show cause Notice and order along with order passed by First Appellate Authority are annexed.

### **Question of Law**

The appellant says and submits that a key question of law that this Hon'ble Tribunal may be required to address is

***“ Whether the interplay of Section 16 of the DGST Act ( Its Explanation appended below that provision) and Section 8 read with Section 10(1)(b) of the IGST ACT 2017 mandates that the final recipient of the goods (that are supplied by the registered taxable supplier on the directions of a third person, who is also a registered taxable person under Section 25 of the DGST Act) must also be registered in order to enable the third person claim the input tax credit based on physical delivery of goods by the supplier?***

The appellant is therefore filing this appeal, inter alia, on the following grounds:

### **Grounds of Appeal**

- a.** The authorities below have passed the order in gross violation of Law and without appreciating the factual evidence that is on record and the statutory provisions on the issue.
- b.** There was violation of Time limit by the Proper Officers to complete the Audit within 3 months. Section 65 mandates the audit officer to complete the audit within a period of three months subject to maximum extension of three months to be taken prior to expiry of three months from the Commissioner. The Audit started on 06.05.2024 and was completed on 01.10.2024 which was above the time limit given for Audit completion. The Appellant asked for Approval for extension of Audit duration if any given by the Assistant Commissioner but the same was not provided and order passed by the Adjudicating Authority on 06.11.2024. Hence, the whole audit process and the audit report should be declared null and void as the procedure laid down in Section 65 (as **annexed at A14**) has not been followed by the proper officer. Request letter for asking for Approval letter Annexed as **Annexure A12**.
- c.** Further the audit officer is the same officer who has scrutinised the returns, audited the taxpayer, prepared the audit report and gave the report to himself, now issued the show cause notice and also adjudicated the show cause

notice. This is becoming a judgment in his own case and the is why all the facts and the law was side lined by the learned officer. Show Cause Notice and Order by Adjudicating Authority are Annexed.

- d. The Proper Officer has dropped the issue of Typographical error in e-way bills generated after submissions of all relevant documents as per show cause notice as this finds no place in the adjudication order passed by him on 06.11.2024.

e. **Bill-to-Ship-to Transactions Valid Under Section 10(1)(b) of IGST Act 2017:**

Section 10(1)(b) specifies the place of supply - when goods are delivered to a third person on the direction of a buyer.

The Appellant(buyer) placed an order with Protector & Co. (Supplier), Mumbai, directing delivery to SV And Co. Delhi. (Third Person or recipient). In the given transaction Supplier and Buyer are registered and the third person to whom Goods are delivered is unregistered, on the basis of which ITC is rejected by the First AA as he has used the materials so purchased for construction of his house and there is no law that mandates the usage the goods can be put to by the ultimate buyer in such transactions. Order by First AA is annexed.

- f. **The Appellant and the Supplier M/s.** Protector & Co. both are registered as per the definition of Section 2(94) which says

**registered person**" means a person who is registered under section 25 of the DGST ACT but does not include a person having a Unique Identity Number; the supply was made between them following section 7 of CGST Act 2017 (**annexed at A14**) i.e. for furtherance of business with consideration. ITC on the same was claimed by the Appellant following the provisions of Section 16 (1) read with Section 16(2) of the DGST Act (**annexed at A14**) and there is no allegation that the appellant did not satisfy any of the conditions laid down in the above two sub sections which are crux of the ITC mechanism in GST.

- g. All documents along with Purchase Order **annexed at A1** on the basis of which Transaction was made are complete and proper and the same have been submitted to the Proper Officer and the same are attached in Annexures also. The proper officer has not found any deficiency in such documentations and has accepted the same.
- h. The appellant says and submits that there is no restriction in GST Act especially in Section 17(5) (**annexed at A14**) read with section 16(1) (**annexed at A14**) on claiming of ITC by the Supplier on his purchases when any sale, on bill to ships to, is made by him to unregistered person. In fact, there is no such condition of any of the B-TO-B transactions under GST – all the taxable persons buy goods from registered tax payers and supply to consumers – can it be said that there shall be not input tax credit available to them?

And Section 16 also allows ITC if claimed as per provisions stated and the extracts of the section is annexed with the Appeal for reference.

The appellant says and submits that it has fulfilled conditions of Section 16(1) along with 16(2)(b) and there is no allegation by the authorities below on this issue.

To claim ITC in a **Bill to-Ship to** transaction, the following conditions must be met:

1. **Registered GSTIN:** Both the supplier and buyer have a valid GST registration.
2. **Use for Business:** Goods must be purchased for business purposes or furtherance of trade. The appellant has purchased the goods for the purposes of its business.
3. **Tax Invoice:** A valid tax invoice has been issued by the supplier to the buyer. **(Annexed at A2 and A10 )**
4. **Matching with GSTR-2A:** The invoice details match with the data auto-populated in the buyer's GSTR-2A. **(Annexed at A11)**
5. **Tax Payment by Supplier:** The supplier has deposited the GST collected with the government. And this is an admitted fact. **(Annexure At A13)**
6. **The goods have been physically delivered to SV &CO and there is not dispute about this. (Annexed at A4)**
7. GST return has been filed showing therein **Bill to-Ship to** transactions. **(Annexed at A6 & A7)**

**The appellant has fulfilled all the above conditions.**

8. Both the appellant and the supplier have charged the required tax as per law and there is also no dispute about that. HSN Details also attached **at Annexure A9.**

- i. The appellant says and submits that there has been rejection of the input tax credit legitimately claimed by the appellant in the sum of Rs 7,25,760/- solely on the ground that the ultimate recipient was an unregistered buyer and there is no other allegation in the matter.
- j. Since law is very clear and on combined reading of Section 8 and section 10(1)(b) of IGST Act, along with Section 16 of the DGST Act it is clear that Transaction is done between the Supplier (Protector & Co) who sold goods to the Appellant (R K Khanna & Co) and both are registered and are eligible to take ITC on their transactions.
- k. Rule 138 of Chapter XVI of CGST Act 2017 of E-way Bill Rules also mentions that in case of inward supply from unregistered person the liability to generate Eway bill lies on the Registered person who causes the movement of goods.
- l. So, there is no restriction on goods sent to unregistered person also in the law as per E-way Bill Rules also.
- m. The Appellant trade in glass ware which are used for both Industrial use and Personal Use by the customers. Since the Appellant sales goods for his business and there is no relevance of how the customers are using the goods and nor does it affect ITC claimed by the Appellant.
- n. Section 17 (Annexed at A14)** is clearly states that proportionate ITC is to be reversed when the goods are used for exempt supply or personal use, but in the case of Appellant, he is making taxable supply only and for his sale to unregistered person and for any reason, he is not liable to reverse ITC.

- o. There was additional evidence also submitted as those were not available at the time of submission of Appeal to First Appellate Authority since the Appellant could not get the same from Protector & Co in time **Annexed at A13.**

**In view of the above the appellant prays as under:**

**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. **Violation of Time limit:** The time limit of Completion of audit was 3 months But Audit was completed in 6 months and no approval was provided for extension of the same. The prayer is that should the Tribunal not declare such an audit illegal?
2. **Lack of Proper Justification:** The show cause notice (SCN) and order did not provide concrete reasons or supporting evidence nor it specified the reason for not accepting the Reply stating the provision under which the case is covered.
3. **Arbitrary Exercise of Power:** The petitioner highlighted Advance ruling where Bill to Ship To transactions are held valid for claiming ITC.
4. **The appellant's legitimate claim of ITC on a legitimate Bill to Ship To transaction should be restored as per due process of law as hereinabove explained.**



In view of the above the appellant prays that the order dated 06.02.2025 passed by the respondent may be quashed and the proper officer be directed to allow the credit which was rejected by him.

The appellant undertakes to provide any other relevant document if required 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 R K Khanna & Co.

Rajkumar

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 7, GST DEPTT DELHI**

**R K Khanna & Co  
Teliwada, Karol Bagh  
New Delhi  
GSTIN No.... 456789123**

**DIIN No. 10101011010**

**20.10.24**

**Show Cause Notice under Section 73 of the DGST Act, 2017 for the  
Assessment year 2022-23**

Audit of your business affairs for the above year was started on 6.5.24 and concluded on 1.10.24 for the above assessment year. A copy of the audit report has been sent to you. You deal in glass ware items that are taxable at the rate of 18 percent.

During the audit proceedings the audit team had observed that you have made Bill to Ship To transactions worth Rs 90,65,000/- (Annexure **A – details of parties and invoice numbers etc**)

Out of these transactions, bills worth Rs 40,32,000/- are meant for construction of a house for personal use which in my opinion are not in the course or furtherance of business which is the precondition of Section 16(1) of the CGST Act 2017 notwithstanding the transactions are on Bill to Ship To basis as in such a case all the three parties must be registered.

(Annexure **B - the details of party and invoice numbers**)

The transactions are between you (as Buyer), Protector & Co, Mumbai (Supplier) and Michael and Co (As recipient).

You are based in Delhi as well as the recipient also in Delhi. The supplier is in Lucknow. The principal place of business of the buyer and recipient being in Delhi and the supplier being in Lucknow, the transactions shall be on IGST basis.

While examining your transactions it has been noticed that in the e-way Bills prepared by you the name of recipient is mentioned as M R Glass and Co, Delhi and not Michael & Co, Delhi which is mentioned in our tax invoices.

The tax invoice prepared by Protector & Co clearly shows that materials are to be billed to you as Buyer (who has placed the order on them) and materials have to be shipped to Michael & Co, Delhi. GSTIN numbers are correctly mentioned.

However, the e-way examined shows a different picture i.e. the recipient is not Michael & Co but M R Glass & Co. Obviously, this has gone unchecked at the check post.

Thus, there being no contractual privity between Protector & Co and M R Glass & Co, it is difficult to understand as to how you claimed, availed and utilised input tax credit based on tax invoice issued by Protector & Co.

As the materials were dispatched by the supplier (Protector & Co) to Michael & Co, Delhi which is totally different from M R Glass & Co, section 16(2)(b) - Explanation read with Section 10(1)(b) of the IGST Act shall prohibit input tax credit for you as the buyer.

Similarly, the LR was prepared by the supplier in your name up to Delhi, but as per records produced the same has not been endorsed or transferred in the name of the buyer Michael & Co.

Further in the absence of any proof of Michael & Co having received the material the input tax credit to the buyer i.e. your firm cannot be permitted. Provisions of Section 16(2)(b) need to be strictly complied with read with Section 16(2) and Section 16(1).

Further why transactions worth Rs 40,32,000/- be not rejected and ITC recover with interest and penalty as admittedly these are not transactions on B-To-B basis but for private. Use.

You are required to show cause as to why the input tax on the entire supply value to the extent of 90,65,000/- be not recovered from with interest and penalty under Section 73 of the DGST Act.

Your reply must be received by the undersigned by 31<sup>st</sup> October 2024 and on the same date personal hearing shall also be granted to you or to your counsel as the case may be. Should you fail to attend this hearing or file your reply further proceedings shall be conducted and finalised without any further notice to you.

**DIGITALLY SIGNED**  
**JOINT COMMISSIONER ZONE 7**

## **REPLY TO SHOW CAUSE NOTICE**

**IN THE PRESCRIBED FORM.**

**DRC 07**

**BEFORE THE ASSISTANT COMMISSIONER, ZONE 7, GST DEPTT DELHI**

**DIN NO.... 10101011010**

**-6.11.24**

**R K Khanna & Co  
Teliwada, Karol Bagh  
New Delhi  
GSTIN No.... 456789123**

**Reply to your show cause notice dated 20.10.24**

**Sir,**

**Present CA Renu Sharma  
Mr R K Khanna, Partner of the tax payer**

**ADJUDICATION ORDER UNDER SECTION 73(9) OF THE DGST ACT 2017**

The tax payer has submitted the following reply in response to show cause notice dated 26.10.24 for the assessment year 2022-23

“At the outset we admit there has been a typographical error in the e-way bill which is just a typographical error without any intention to hoodwink the tax system and evade payment of tax.

We are enclosing our invoices for your kind perusal:

- 1) The invoices of the Supplier Protector & Co, Lucknow are clearly mentioning bill to R K Khanna & Co ( as buyer) and Michael & Co ( Delhi) as the recipient. GSTIN numbers are correctly mentioned. Further we are enclosing a confirmation letter from Michael @ Co to the effect that they have received the goods sent by Protector & Co. Still further both the bills were raised in IGST Basis – supply to us and us to the recipient. There is no attempt made to evade the tax. As the value of the consignment was more than Rs 50,000/- e way bill was generated. It is due to typographical error that the name of M R Glass & Co got punched and as the goods did not involve Interstate movement perhaps this error went unnoticed. M R Glass & CO is also our buyer and we are enclosing a confirmation from him also to the effect that he did not place any order for the items mentioned in the invoice nor he received any materials from RT Transport Co.
- 2) We had issued a purchase order on Protector & Co, Lucknow ( Annexure....) clearly stating that the transaction shall be on Bill to Ship To basis and billing name with address GSTIN belongs to us and Shipping Address was Michael & Co with GSTIN and Address. Proctor & Co raised an invoice no 2 dated 4.7.2014 ( annexure ...) clearly stating the above particulars of buyer and the recipient ( bill to ship to ). And this is exactly what we had ordered for. We have made payment to them and Michael & Co have made payment to us and both have filed returns and the transactions are duly reflected in 3B accordingly. The bank statements are also enclosed showing these transactions as Annexure...
- 3) We are also enclosing an affidavit to this effect certifying that the above are only true facts and the typographical mistake in entering M R Glass @ Co and their GSTIN number in e-way bill was bona fide and unintentional.
- 4) Lorry receipt from Protector and Co was issued in our name with receiver address of Michael @ Co. On receipt of the lorry receipts we transferred

the same to Michael & Co who received the materials from the transporters. Even a certificate from the transporter is also enclosed for your kind perusal.

- 5) **Regarding transaction of Rs 40,32,000/-** as per details given in Annexure.... The provision of Section 10(1)(b) of IGST Act does not specify that the transactions have to be between registered dealers only. Further the input tax credit has to be claimed availed and utilised by the buyer i.e. our firm and the supply is from a registered dealer Protecra & Co. Hence, we think this requirement does not exist in law.”

**I have gone through the documents carefully and applied my mind. On the issue of typographical error benefit of doubt could be given to the tax payer. I have checked all other documents and find nothing wrong in them. On this issue I drop the show cause notice and ITC on transactions between the taxpayer and Michael & Co for Rs 50,33,000/- is accepted on bill to ship to basis and hence the taxpayer seems to have rightly claimed the input tax credit.**

**However on the transaction between the tax payer and an unregistered dealer who is buying glass ware for his personal house, in my view, does not merit attention and the input tax credit of Rs 735760/- is to be paid back with interest of 18 percent from the date when it was claimed in the returns. Penalty proceedings shall be separately initiated against the tax payer.**

**DIGITALLY SIGNED  
ASSISTANT COMMISSIONER  
ZONE 7**



**BEFORE THE JOINT COMMISSIONER, (APPEALS) ZONE 7, GST DEPTT  
DELHI**

**DIN NO.... 10101011112**

**6.02.24**

**R K Khanna & Co  
Teliwada, Karol Bagh  
New Delhi  
GSTIN No.... 456789123**

**ORDER UNDER SECTION 107(11) OF DGST ACT 2017  
ASSESSMENT YEAR 2022-23**

**Present CA Renu Sharma  
Counsel for the Appellant.**

**The present appeal is filed by the appellant against the order passed under section 73(9) of the DGST Act dated 6.11.24 passed by the proper officer of zone 7. The appeal is within the limitation period as prescribed under section 107(4) of the DGST Act.**

The short question involved in this appeal is whether a transaction described as Bill to Ship To in terms of section 10(1)(b) of IGST Act 2017 read with section 16(2)(b) Explanation can be made with one of the three parties being unregistered?

The facts are that the appellant deals in glass and glass ware products for industrial and home consumption. He made a transaction worth Rs 40,32,000/- on Bill to Ship To basis when he placed an order on Protector & Co Lucknow to send the materials worth 40,32,000/- taxable at 18 percent to SV & CO Delhi who was building his house and bill the same to the appellant. The purchase order placed by the appellant on the supplier Protector & Co clearly shows so and I have perused the purchase order.

The proper officer after conducting the audit noticed this and issued a show cause notice to the appellant dated 20.10.24 and the appellant filed a detailed reply. The appellant has reiterated the grounds of appeal wherein a point of law has been taken that the provisions do not envisage all the three parties to be registered.

I have heard CA Renu Sharma. She has taken me through the provisions as above and emphasised the same issue.

*However, I do not find any merit in her arguments as the interpretation of section 16(2)(b) Explanation read with Section 10(1)(b) of IGST Act cannot lead to this conclusion. Hence, the appeal is devoid of any merits and is hereby dismissed.*

*Digitally Signed*

*Joint Commissioner Zone 7*

**R K KHANNA & CO.****PURCHASE ORDER**

Teliwada , Karol Bagh  
New Delhi -110005  
Phone: 98XXXXX65

DATE 30.10.2022  
PO # [123456]

Website:

**VENDOR**

Protector & Co  
Sale Department  
Peeragadhi  
Lucknow UP  
Phone: 985XXXXXX

**SHIP TO**

SV & Co  
Naiwala Chowk  
Karol Bagh  
New Delhi 1100005  
98XXXXXX34

ITEM #	DESCRIPTION	QTY	UNIT PRICE	TOTAL
[23423423]	Thick Glass 4/4	30	1,15,200.00	34,56,000.00
[45645645]	Thick Glass2/2	5	1,15,200.00	5,76,000.00
				-
				-
				-

SUBTOTAL 40,32,000.00

**Comments or Special Instructions**

Goods are to be delivered at S V & Co at Karol Bagh ,

TAX 7,25,760.00

SHIPPING -

OTHER -

**TOTAL ₹ 47,57,760.00**

Rajkumar....

Signed BY

If you have any questions about this purchase order, please contact  
[Name, Phone #, E-mail]

# PROTECTOR & COMPANY

## INVOICE

***Believe in the Best***

Peeragadhi  
Lucknow ,UP  
Phone 9865XXXXX

**DATE:** 11.11.2022  
**INVOICE #** 569  
**FOR:** Glasswares

**Bill To:**

R K Khanna & Co.  
Teliwada Chowk  
New Delhi 110005  
Phone: 98XXXXXXx

Ship To:  
SV & Co.  
Naiwala Chowk  
New Delhi 110005

DESCRIPTION	Qty	AMOUNT
		₹ -
Glasswares of 4/4 and 2/2	35	₹ 40,32,000.00
		₹ -
		₹ -
Taxable Value		₹ 40,32,000.00
GST at 18%		₹ 7,25,760.00
Invoice Value		₹ 47,57,760.00

Make all checks payable to

If you have any questions concerning this invoice,  
Contact Name, Phone Number, E-mail

**THANK YOU FOR YOUR BUSINESS!**

RENSJAJAI<<<<<<

**Signature**

Authorised Signatory

# E-Way Bill

## 1. E-WAY BILL Details

eWay Bill No: <b>6615 XXXX 3444</b>	Generated Date: <b>12/11/2022 06:12PM</b>	Generated By: <b>21GI A2129 HE89Y HE</b>
		Valid Upto: <b>15/11/2022</b>
Mode: <b>Road</b>	Approx Distance: <b>280km</b>	
Type: <b>Outward-Supply</b>	Document Details: <b>Tax-Invoice-569-11/11/2022</b>	Transaction type: Bill to Ship to

## 2. Address Details

From	To
GSTIN:09XXXXXXXXXX Protector & Co UP  ::Dispatch From:: Proetcor & Co Peeragadhi , Lucknow	GSTIN: 07XXXXXXXXXX R K Khanna & Co Teliwada , Delhi  ::Ship To:: Naiwala Chowk , Karol Bagh Delhi

## 3. Goods Details

HSN Code	Product Name & Desc	Quantity	Taxable Amount Rs.	Tax Rate (C+S+I+Cess+Cess Non.Advol)			
7013	Glassware	35	4032000	9%	9%	0%	0%
Tot. Tax'ble Amt	CGST Amt	SGST Amt	IGST Amt	Cess Amt	Cess Non.Advol Amt	Other Amt	Tot. Inv. Amt
4032000	362880	362880	0	0			4757760

## 4. Transportation Details

Transport ID & Name: <b>Self</b>	Transport Doc. No. & Date: <b>1256 12/11/2022</b>
----------------------------------	---

## 5. Vehicle Details

Mode	Vehicle / Transport Doc. No. & Date	From	Entered Date	Entered By	CEWB No. (If any)	Multi Veh. Info (if any)
Truck	XXXXXX	UP	##### #			



GMAIL



Rkkhanna@gmail.com

Date -22-11.2022

Mr Rajkumar,

C/o R K Khanna & Co.

Teliwada

New Delhi -110005

This is to confirm you that we have received Glassware of Rs. 50,65,000 from Vehicle no XXXXXXXX dated XXXXX Dispatched from Lucknow.

We confirm the same and will make payment soon.

Regards

SV & Co.

Naiwala Chowk

Karol Bagh

New Delhi 110005

S V & Co.					
Ledger for Financial Year 2022-23					
Dr			Cr		
DATE	PARTICULERS	AMOUNT	DATE	PARTICULERS	AMOUNT
11.11.2022	To Sales	5065000	21.11.2022	By Bank	5976700
	To GST	911700			
		59,76,700			59,76,700

Rajkumar .....

**For R K Khanna & Co.**

**Proprietor**

Form GST1																			
See Rule [(1)]																			
						Financial Year-2022-23													
						Tax Period - November													
<div style="display: flex; justify-content: space-between;"> <div>1 GSTN 07XXXXXXXXXX</div> <div>2</div> </div> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%;">a</td> <td style="width: 60%;">Legal name of the Registered Person</td> <td style="width: 35%;">RAJKUMAR</td> </tr> <tr> <td>b</td> <td>Trade Name</td> <td>R K KHANNA &amp; CO.</td> </tr> <tr> <td>c</td> <td>ARN</td> <td>AA07XXXXCVBX</td> </tr> <tr> <td>d</td> <td>ARN Date</td> <td>11-12-2022</td> </tr> </table>								a	Legal name of the Registered Person	RAJKUMAR	b	Trade Name	R K KHANNA & CO.	c	ARN	AA07XXXXCVBX	d	ARN Date	11-12-2022
a	Legal name of the Registered Person	RAJKUMAR																	
b	Trade Name	R K KHANNA & CO.																	
c	ARN	AA07XXXXCVBX																	
d	ARN Date	11-12-2022																	
<b>Description</b>	<b>No.of Record</b>	<b>Document type</b>	<b>Value</b>	<b>IGST</b>	<b>CGST</b>	<b>SGST</b>	<b>CESS</b>												
4A- taxable Outward Supply to registered person																			
Total	4	Invoice	5641444	1015460			0												
4B - Supply under RCM																			
Total																			
5- Taxable outward inter state Supply to unregistered person (where Invoice value is more than 1 Lakh)																			
Total																			
7-Taxable Supply(Net of Debit/Credit Notes )to Unregistered person																			
Total	2	Invoice	6506667		585600	585600	0												
HSN-wise summary of outward supplies																			
Total																			
13 - Documents issued																			
Net issued documents 6 All Documents																			
14 - Supplies made through E-Commerce Operators																			
Total																			
14A - Amended Supplies made through E-Commerce Operators																			
15 - Supplies U/s 9(5)																			
Total 0 Document/Net																			
Value																			
<b>TOTAL</b>			<b>12148111</b>	<b>1015460</b>	<b>585600</b>	<b>585600</b>	<b>0</b>												
of any reduction in output tax liability the benefit thereof has been/ will be passed on to the recipient of supply. Date: 11/12/2022 Signature Name of Authorized Signatory Rajkumar Designation/Status: Proprietor																			



### Form GST 3B [See Rule 61(5)]

Year-2022-23

Period -November

1. GSTN	07XXXXXXXXXX
2.a. Legal name of the Registered Person	RAJKUMAR
2.b.Trade Name	R K KHANNA & CO.
2.c.ARN	AA07XXXXCVBX
2.d.ARN Date	11-12-2022

#### 3.1 Details of Outward Supply and Inward Supply liable to reverse charge

Nature of Supply	Total Taxable Value	IGST	CGST	SGST	CESS
(a) Outward Taxable Supply	12148111	1015460	585600	585600	0
(b) Zero Rated Supply					
(c ) Nil arted Uspply					
(d) Inward Supply under RCM					
€ Non GST Outward Supply					

#### 4. Eligible ITC

Details	IGST	CGST	SGST	CESS
All Other ITC	725760			
Net ITC available	725760			

#### 6.1 Payment of Tax

Description	Tax payable	Tax paid through ITC			tax paid in Cash
		IGST	CGST	SGST	
IGST	1015460	725760			289700
CGST	585600				585600
SGST	585600				585600
CESS	0				0

#### Verification

Date-20.12.2022

Name of Authorised Signatory  
Rajkumar  
Properitor

GOODS AND SERVICES TAX PAYMENT RECEIPT							
CPIN: xxxxxxxxxx    Deposit Date - 20/12/2022    Deposit Time: 12:53:25    e Scroll: A							
Payment particulars							
CIN: CXXXXXXXX    Name of the Bank: Bank of Kanyakumari    BRN: CXXXXXXXX							
Details of tax payer:							
GSTN 07XXXXXXXX    Email ID XXXXXXXX@gmail.com    Mobile No.98XXXXXXXX							
Name: RAJ KUMAR    Address: XXXXXXXXXXXXXXXX							
Reason - Any other payment							
Details of Deposit (All amount in Rupees)							
Government	Major Head	Minor Head					
		Tax	Interest	Penalty	Fee	Others	Total
Government of India	CGST	585600					585600
	IGST	289700					289700
	CESS	-					
	Sub Total	875300	0	0	0	0	875300
Delhi	SGST	585600					585600
Total Amount							1460900
Total Amount in Words							
Mode of Payment: Net Banking, UBI							

**HSN Details as per GST portal in Which Firm is trading**

Sr.no	HSN	Description
1	7013	Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes
2	7016	Paving blocks, slabs, bricks, squares, tiles and other articles of pressed or moulded glass, whether or not wired, of a kind used for building or construction purposes
3	7017	Laboratory, hygienic or pharmaceutical glassware, whether or not graduated or calibrated
4	7009	Glass mirrors, whether or not framed, including rear-view mirrors
5	7007	Safety glass, consisting of toughened (tempered) or laminated glass

**R K KHANNA & CO.***Believe in the Best*

Teliwada , Karol Bagh  
 New Delhi 110005  
 Phone 9865XXXXX

**Bill To:**

SV & Co.  
 Naiwala Chowk  
 New Dlehi 110005  
 Phone: 98357XXXXx

**INVOICE**

**DATE:** 11.11.2022  
**INVOICE #** 100  
**FOR:** Glasswares

DESCRIPTION	Qty	AMOUNT
		₹ -
Glasswares HSN 7013	35	₹ 50,65,000.00
		₹ -
		₹ -
<b>Taxable Value</b>		₹ 50,65,000.00
<b>GST at 18%</b>		₹ 9,11,700.00
<b>Invoice Value</b>		₹ 59,76,700.00

Make all checks payable to

If you have any questions concerning this invoice, Contact Name,  
 Phone Number, E-mail

**THANK YOU FOR YOUR BUSINESS!**

Rajkumar.....

**Signature**

Properietor

## Goods and Services Tax - GSTR-2B (Quarterly)

## Taxable inward supplies received from registered persons

GSTIN of supplier	Trade/Legal name of the supplier	Invoice Details				Place of supply	Supply Attract Reverse Charge	Rate(%)	Taxable Value (₹)	Tax Amount			
		Invoice number	Invoice type	Invoice Date	Invoice Value(₹)					Integrated Tax(₹)	Central Tax(₹)	State/UT Tax(₹)	Cess(₹)
09XXXXXXXXXX	Protector & Co	568	Regular	09-11-2022	5938940.00	Delhi	No	18	5033000.00	905940.00	0.00	0.00	0.00
09XXXXXXXXXX	Protector & Co	569	Regular	11-11-2022	4757760.00	Delhi	No	18	4032000.00	725760.00	0.00	0.00	0.00

**R K Khanna & Co.**

Teliwadi, Karol Bagh New Delhi 110005

GSTIN: 07AAFBPXXXX1ZM

Email: XXXXXXXX@gmail.com

Phone: 98 XXXXX765

**Date:** 10.11.2024

**To**

The Assistant Commissioner,  
Indraprastha Bahawan  
New Delhi ,110005

**Subject: Request to get Approval Letter for Extension of GST Audit Period**

Respected Sir/Madam,

We, R K Khanna & Co. are registered under the Goods and Services Tax Act, 2017, bearing GSTIN: 07AAFBPXXXX1ZM falling under your jurisdiction.

This is to respectfully submit that a GST audit is currently being conducted by the departmental audit officers for the period **FY 2022–23**. The audit commenced on 06.05.2024 but ends on 01.10.2024 which is beyond the prescribed period given under Section 65(4) i.e. 3 months period. We request your good self to kindly provide us the copy of **approval letter for extension** of the audit period under Section 65(4) of the CGST Act, 2017.

We assure you of our full cooperation with the audit team and our commitment to furnishing all required documents and explanations to facilitate a smooth audit process.

We request your kind consideration and provide us the Approval letter on the basis of which Audit duration was extended.

Thanking you.

Rajkumar.....

Yours faithfully,

**For R K Khanna & Co.**

Authorized Signatory

Rajkumar

(Proprietor)

**Mobile: 987XXXXXX65**

## To Whomsoever It May Concern

This is to certify and declare that we, M/s. Protector & Co. having GSTIN: **09 AAPCCXXX1ZN**, and registered office at **PEERGADHI, LUCKHNOW**, have duly deposited the GST of Rs. 7,25,760 on the transaction having Invoice no. 569 dated 11.11.2022 with the Government in GST 3B of November month filed on 20.12.2022 during the financial year 2022–23.

We confirm that the GST liability for the period of November 2022 for FY 2022-23 has been fully discharged through appropriate payment in the respective monthly GST returns filed under the relevant provisions of the CGST Act, SGST Act, and IGST Act, as applicable.

The tax payments have been made through the Electronic Cash Ledger on the GST portal, and relevant challans and return acknowledgments are available for verification, if required.

This declaration is made in good faith and to the best of our knowledge and belief.

**Date:** 06.03.2025

RENNVSI>>>>>

For Protector & Co.

(Authorised signatory)

Shriram Transport Company							
Peeragadhi chowk ,Lucknow XXXXXX							
<b>Consigner details</b>						<b>consignee details</b>	
Protector & Co. Peeragadhi Lucknow						R K Khanna & Co. <b>ship to:</b> S V & Co. Naiwala chowk New Delhi	
Date		12.11.2022					
Place of booking		Peeragadhi , Lucknow					
Qty	Description	Rate	Value	Weight	Goods received		
Pcs.				Kg	on	12.11.2022	
					delivery on	15.11.2022	
35	Glass ware	135936	4757760	192.5			
Signed by Transporter		Signed by the person goods belong to whom			To be signed by the person who receives the goods		
Xyz.....		RENNVSI>>>>>>			Sushil Verma SV & Co.		
		Protector & Co.					



<b>R.K. KHANNA &amp; CO.</b> <b>Ledger for Financial Year 2022-23</b>					
Dr			Cr		
DATE	PARTICULERS	AMOUNT	DATE	PARTICULERS	AMOUNT
05.05.2022	To Sales	15,88,500	15.09.2022	By Bank	3357100
	To GST	2,85,930			
08.07.2022	To Sales	1256500	25.10.2022	By Bank	5138192
	To GST	226170			
15.09.2022	To Sales	1785900	15.11.2022	By Bank	10299984
	To GST	321462			
20.10.2022	To Sales	2568500	20.12.2022	By Bank	6605404
	To GST	462330			
30.10.2022	To Sales	3695800	31.03.2023	By balance c/f	30,24,576
	To GST	665244			
09.11.2022	To Sales	5033000			
	To GST	905940			
11.11.2022	To Sales	4032000			
	To GST	725760			
12.12.2022	To Sales	1565800			
	To GST	281844			
03.02.2023	To Sales	2563200			
	To GST	461376			
		2,84,25,256			2,84,25,256

RENNVSI>>>>>>

**For Protector & Co**

**Authorised Signatory**

**Section 65. Audit by tax authorities.**[[Rule 101](#), [Rule 101\(2\)](#) & [Rule 101\(5\)](#)]

(1) The Commissioner or any officer authorised by him, by way of a general or a specific order, may undertake audit of any registered person for such period, at such frequency and in such manner as may be prescribed.

(2) The officers referred to in sub-section (1) may conduct audit at the [place of business](#) of the registered person or in their office.

(3) The registered person shall be informed by way of a notice not less than fifteen working days prior to the conduct of audit in such manner as may be prescribed.

(4) The audit under sub-section (1) shall be completed within a period of three months from the date of commencement of the audit:

Provided that where the Commissioner is satisfied that audit in respect of such registered person cannot be completed within three months, he may, **for the reasons to be recorded in writing**, extend the period by a further period not exceeding six months.

**Explanation.**—For the purposes of this sub-section, the expression “commencement of audit” shall mean the date on which the records and other documents, called for by the tax authorities, are made available by the registered person or the actual institution of audit at the [place of business](#), whichever is later.

(5) During the course of audit, the authorised officer may require the registered person,—

(i) to afford him the necessary facility to verify the books of account or other documents as he may require;

(ii) to furnish such information as he may require and render assistance for timely completion of the audit.

(6) On conclusion of audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.

(7) Where the audit conducted under sub-section (1) results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate action under [section 73](#) or [section 74](#) <sup>1</sup>[or section 74A].

**Section 10. Place of supply of goods other than supply of goods imported into, or exported from India.**

(1) The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,—

(a) where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;

(b) where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person;

(c) where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient

<sup>1</sup>[(ca) where the supply of goods is made to a person other than a registered person, the place of supply shall, notwithstanding anything contrary contained in clause (a) or clause (c), be the location as per the address of the said person recorded in the invoice issued in respect of the said supply and the location of the supplier where the address of the said person is not recorded in the invoice.

Explanation.—For the purposes of this clause, recording of the name of the State of the said person in the invoice shall be deemed to be the recording of the address of the said person;]

(d) where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly;

(e) where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.

(2) Where the place of supply of goods cannot be determined, the place of supply shall be determined in such manner as may be prescribed.

**Section 8. Intra-State supply.**

(1) Subject to the provisions of section 10, supply of goods where the location of the supplier and the place of supply of goods are in the same State or same Union territory shall be treated as intra-State supply:

Provided that the following supply of goods shall not be treated as intra-State supply, namely:—

- (i) supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit;
- (ii) goods imported into the territory of India till they cross the customs frontiers of India; or
- (iii) supplies made to a tourist referred to in section 15.

(2) Subject to the provisions of section 12, supply of services where the location of the supplier and the place of supply of services are in the same State or same Union territory shall be treated as intra-State supply:

Provided that the intra-State supply of services shall not include supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.

**Explanation 1.**—For the purposes of this Act, where a person has,—

- (i) an establishment in India and any other establishment outside India;
- (ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or
- (iii) an establishment in a State or Union territory and any other establishment 1[\*\*\*] registered within that State or Union territory, then such establishments shall be treated as establishments of distinct persons.

**Explanation 2.**—A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

## Section 7. Scope of supply

(1) For the purposes of this Act, the expression "supply" includes—

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

<sup>6</sup>"(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice versa, for cash, deferred payment or other valuable consideration.

**Explanation.**—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;"

(b) import of services for a consideration whether or not in the course or furtherance of business; <sup>1</sup>[and]

(c) the activities specified in [Schedule-I](#), made or agreed to be made without a consideration; <sup>2</sup>[\*\*\*]

<sup>3</sup>[(d) \*\*\*]

<sup>4</sup>[(1A) where certain activities or transactions, constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in [Schedule-II](#).]

(2) Notwithstanding anything contained in sub-section (1),

(a) activities or transactions specified in [Schedule-III](#); or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

(3) Subject to the provisions of <sup>5</sup>[sub-sections (1), (1A) and (2)], the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—

(a) a supply of goods and not as a supply of services; or

(b) a supply of services and not as a supply of goods.

## Section 16. Eligibility and conditions for taking input tax credit.

(1) Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in [section 49](#), be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person. (*My Lord since the Appellant is a registered person who is claiming the ITC and he is in the business of Glassware and he sold the same to SV & Co in the course of his business so he satisfied the condition of the main provision and is entitled to take credit of the same* )

(2) Notwithstanding anything contained in this section, no registered person shall be entitled to the credit of any input tax in respect of any supply of goods or services or both to him unless, —

(a) he is in possession of a tax invoice or debit note issued by a supplier registered under this Act, or such other tax paying documents as may be prescribed; (*The Tax Invoice issued by the Supplier has been attached at page no. 36*)

<sup>5</sup>"(aa) the details of the invoice or debit note referred to in clause (a) has been furnished by the supplier in the statement of outward supplies and such details have been communicated to the recipient of such invoice or debit note in the manner specified under [section 37](#);"

(b) he has received the goods or services or both

<sup>1</sup>[**Explanation.** —For the purposes of this clause, it shall be deemed that the registered person has received the goods or, as the case may be, services—

(i) where the goods are delivered by the supplier (i. e. Protector & Co. in my case) to a recipient (i.e. S V & Co) or any other person on the direction of such registered person (i.e. the Appellant), whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to goods or otherwise; (*My Lord there was no restriction put here also on recipient being required to be registered for claiming ITC by the Third Party and third party here is the Appellant who is already registered .*)

(ii) where the services are provided by the supplier to any person on the direction of and on account of such registered person.]

<sup>6</sup>["(ba) the details of input tax credit in respect of the said supply communicated to such registered person under section 38 has not been restricted;";]

16(2) small (c) -subject to the provisions of <sup>2</sup>[section 41](#) <sup>7</sup>[or [section 43A](#)]], the tax charged in respect of such supply has been actually paid to the Government, either in cash or through utilisation of input tax credit admissible in respect of the said supply; and (*Declaration given page no 47 by the Supplier for discharge of my tax* )

16(2) clause small (d) says he has furnished the return under [section 39](#): (*Copy attached at page no. 40 & 41*)

Provided that where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment:

Provided further that where a recipient fails to pay to the supplier of goods or services or both, other than the supplies on which tax is payable on reverse charge basis, the amount towards the value of supply along with tax payable thereon within a period of one hundred and eighty days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be <sup>9</sup>[paid by him along with interest payable under [section 50](#)], in such manner as may be prescribed: [\[Rule 37\]](#)

**Provided also** that the recipient shall be entitled to avail of the credit of input tax on payment made by him <sup>10</sup>[to the supplier] of the amount towards the value of supply of goods or services or both along with tax payable thereon.

(3) Where the registered person has claimed depreciation on the tax component of the cost of capital goods and plant and machinery under the provisions of the Income-tax Act, 1961, the input tax credit on the said tax component shall not be allowed.

(4) A registered person shall not be entitled to take input tax credit in respect of any invoice or debit note for supply of goods or services or both after the <sup>8</sup>[thirtieth day of November] following the end of financial year to which such invoice or <sup>4</sup>[invoice relating to such] debit note pertains or furnishing of the relevant annual return, whichever is earlier. [\[Rule 37\(4\)\]](#)

<sup>3</sup>[Provided that the registered person shall be entitled to take input tax credit after the due date of furnishing of the return under [section 39](#) for the month of September, 2018 till the due date of furnishing of the return under the said section for the month of March, 2019 in respect of any invoice or invoice relating to such debit note for supply of goods or services or both made during the financial year 2017-18, the details of which have been uploaded by the supplier under sub-section (1) of [section 37](#) till the due date for furnishing the details under sub-section (1) of said section for the month of March, 2019.]

<sup>11</sup>[(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed up to the thirtieth day of November, 2021.

(6) Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,—

(i) filed up to thirtieth day of November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or

(ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration,

whichever is later.”.]

**Section 17. Apportionment of credit and blocked credits.** [[Rule 38](#), [Rule 42](#) & [Rule 43](#)]

(1) Where the goods or services or both are used by the registered person partly for the purpose of any business and partly for other purposes, the amount of credit shall be restricted to so much of the input tax as is attributable to the purposes of his business.

(2) Where the goods or services or both are used by the registered person partly for effecting taxable supplies including zero-rated supplies under this Act or under the Integrated Goods and Services Tax Act and partly for effecting exempt supplies under the said Acts, the amount of credit shall be restricted to so much of the input tax as is attributable to the said taxable supplies including zero-rated supplies.

(3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

<sup>1</sup>[**Explanation.**- For the purposes of this sub-section, the expression "value of [exempt supply](#)" shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule; <sup>4</sup>[except, –

(i) the value of activities or transactions specified in paragraph 5 of the said schedule; and,

(ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule.]

(4) A banking company or a financial institution including a non-banking financial company, engaged in supplying services by way of accepting deposits, extending loans or advances shall have the option to either comply with the provisions of subsection (2), or avail of, every month, an amount equal to fifty per cent. of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall lapse:

**Provided** that the option once exercised shall not be withdrawn during the remaining part of the financial year:

**Provided** further that the restriction of fifty per cent. shall not apply to the tax paid on supplies made by one registered person to another registered person having the same Permanent Account Number.



(5) Notwithstanding anything contained in sub-section (1) of [section 16](#) and sub-section (1) of [section 18](#), input tax credit shall not be available in respect of the following, namely:-

<sup>2</sup>[(a) motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), except when they are used for making the following taxable supplies, namely:-

- (A) further supply of such motor vehicles; or
- (B) transportation of passengers; or
- (C) imparting training on driving such motor vehicles;

(aa) vessels and aircraft except when they are used-

(i) for making the following taxable supplies, namely:-

- (A) further supply of such vessels or aircraft; or
- (B) transportation of passengers; or
- (C) imparting training on navigating such vessels; or
- (D) imparting training on flying such aircraft;

(ii) for transportation of goods;

(ab) services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa):

**Provided** that the input tax credit in respect of such services shall be available-

(i) where the motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) are used for the purposes specified therein;

(ii) where received by a taxable person engaged-

(I) in the manufacture of such motor vehicles, vessels or aircraft; or

(II) in the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him;]

(b) <sup>3</sup>[the following supply of goods or services or both-

(i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery, leasing, renting or hiring of motor vehicles, vessels or aircraft referred to in clause (a) or clause (aa) except when used for the purposes specified therein, life insurance and health insurance:

**Provided** that the input tax credit in respect of such goods or services or both shall be available where an inward supply of such goods or services or both is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply;

(ii) membership of a club, health and fitness centre; and

(iii) travel benefits extended to employees on vacation such as leave or home travel concession:

**Provided** that the input tax credit in respect of such goods or services or both shall be available, where it is obligatory for an employer to provide the same to its employees under any law for the time being in force.]

(c) works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service;

(d) goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.

**Explanation.**-For the purposes of clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalisation, to the said immovable property;

(e) goods or services or both on which tax has been paid under [section 10](#);

(f) goods or services or both received by a non-resident taxable person except on goods imported by him;

<sup>5</sup>[(fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of Companies Act, 2013]

(g) goods or services or both used for personal consumption;

(h) goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and

(i) any tax paid in accordance with the provisions of <sup>6</sup>[section 74 in respect of any period up to Financial Year 2023-24].

(6) The Government may prescribe the manner in which the credit referred to in sub-sections (1) and (2) may be attributed.

**Explanation.**- For the purposes of this Chapter and Chapter VI, the expression "plant and machinery" means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes-

(i) land, building or any other civil structures;

(ii) telecommunication towers; and

(iii) pipelines laid outside the factory premises.

**Rule 138.** <sup>6</sup>[Information to be furnished prior to commencement of movement of goods and generation of e-way bill.]- [Section 68]

(1) Every registered person who causes movement of goods of consignment value exceeding fifty thousand rupees-

(i) in relation to a supply; or

(ii) for reasons other than supply; or

(iii) due to inward supply from an unregistered person,

shall, before commencement of such movement, furnish information relating to the said goods as specified in Part A of FORM GST [EWB-01](#), electronically, on the common portal along with such other information as may be required on the common portal and a unique number will be generated on the said portal:

Provided that the transporter, on an authorization received from the registered person, may furnish information in Part A of FORM GST [EWB-01](#), electronically, on the common portal along with such other information as may be required on the common portal and a unique number will be generated on the said portal:

Provided further that where the goods to be transported are supplied through an ecommerce operator or a courier agency, on an authorization received from the consignor, the information in Part A of FORM GST [EWB-01](#) may be furnished by such e-commerce operator or courier agency and a unique number will be generated on the said portal:

Provided also that where goods are sent by a principal located in one State or Union territory to a job worker located in any other State or Union territory, the e-way bill shall be generated either by the principal or the job worker, if registered, irrespective of the value of the consignment:

Provided also that where handicraft goods are transported from one State or Union territory to another State or Union territory by a person who has been exempted from the requirement of

obtaining registration under clauses (i) and (ii) of [section 24](#), the e-way bill shall be generated by the said person irrespective of the value of the consignment.

**STAMP PAPER**  
**DULY NOTORISED**



## VAKLATNAMA

**IN THE TRIBUNAL , GOODS AND SERVICES TAX ACT ,AT NEW DELHI**  
**SUIT/APPEAL/COMPLAINT/PETITION/W.P. NO.XXXXXXXXXX OF 2025**

**In the Matter of:**

RAJ KUMAR PROPRIETOR OF M/S R K KHANNA & CO. - Appellant

**VERSUS**

COMMISSIONER-Respondent

KNOW ALL to whom these present shall come that I Raj **Kumar** Proprietor of the above-named Company M/S R K Khanna & Co. do hereby appoint **Chartered Accountant Renu Sharma** (herein after called the CA ) to be my CA 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 29<sup>th</sup> day of March 2025.

Accepted,                      and                      identified                      the                      client.

**Rajkumar.....**

**Signature of the Party**

**RAJ KUMAR**

**(Proprietor of M/s R K KHANNA & Co.)**

**Rreenu .....**

**Accepted By**

**CA RENU SHARMA**

**Chartered Accountant**

Address: 28, Padam Singh Road ,Karol Bagh New Delhi  
Enrollment No:061005

Mobile No: 9873710839 E-Mail : beelsharmarenu@gmail.com

GSTAT FORM-04

(see rule 72)

Memorandum of appearance

To The Registrar,

The Goods and Services Tax Appellate Tribunal

In the matter of Raj Kumar Proprietor of M/s R K Khanna & Co. Petitioner.  
Vs. Joint Commissioner (Appeals) Respondent (Appeal No xxxxxxxxx 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.

Rreenu.....

Yours sincerely,

Dated 29<sup>th</sup> day of March 2025

CA RENU SHARMA

Address: Arora's KDC ,  
28,XXXX XXXX Road ,  
Karol Bagh, New Delhi-110005  
Tele No.:98XXXX839