

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

APPEAL NO..... OF 2025

IN THE MATTER OF :

KHANNA ENTERPRISES PRIVATE LIMITED

Katra Baliyan

Delhi 110 006

GSTIN N o.... 123456789

APPELLANT

VERSUS

COMMISSIONER, DELHI DGST

I.P.MARG, NEW DELHI

RESPONDENT

**APPEAL UNDER SECTION 112 OF THE DGST ACT AGAINST THE
IMPUGNED ORDER DATED 11.01.2025 CONFIRMING THE
CANCELLATION OF REGISTRATION CERTIFICATE OF THE
APPELLANT RETROSPECTIVELY W.E.F 01.07.2017**

Hon'ble President of the GST TRIBUNAL AND HIS COMPANION

MEMBERS, RESPECTFULLY SHOWETH:

1. The appellant is a private limited company (Bonafide Person) engaged in the business of trading of polymers for the last many years and has filed all the returns in time and paid the tax as per provisions of law. The company has been reporting enhanced turnover every year and is a good tax payer.

2. The appeal has been filed within limitation periods, the appeal is being filed by the Director of the company Sh.S. K Das, who is duly authorised as per Board Resolution of the Company that can be produced if required.
3. There is no pre-deposit required as the appeal is against the cancellation of registration order and there is no disputed demand created in the orders of the lower authority.
4. THE APPEAL IS FILED WITHIN THE LIMITATION PERIOD. THE IMPUGNED ORDER WAS RECEIVED ON 12.01.2025 AND THE APPEAL IS BEING FILED ON DATED 1ST APRIL 2025.
5. THE SHOW CAUSE NOTICE, PROCEEDINGS BEFORE THE PROPER OFFICER AND THE IMPUGNED ORDERS ARE ANNEXED AS ANNEXURE A, B AND C RESPECTIVELY AS MENTIONED IN THE INDEX.
6. THE PRESCRIBED FEE HAS BEEN DEPOSITED AS PER LAW.

FACTUAL MATRIX OF THE CASE

1. A show cause notice dated 18th October 2024 was received from the proper officer proposing the registration certificate cancellation w.e.f. 01.07.2017 on the ground that documents filed by the appellant at the time of registration are not verifiable from the records of the department. This fact is now being brought up after a gap of many years – which itself is a ground why this show cause notice is legally permissible.

2. Also in the show cause notice the proper officer has directed the appellant to produce the original KYC documents of the Director Shri Abdul Ahmed who has signed the registration application and his original PAN Card and Adhaar Card for verification and his share capital account in the company. Further the original bank account of the company for the month of the October 2017 be also brought on record duly certified by the statutory auditor, LMN. & Co. I had sent notice at your registered business place in the name of Mr Abdul Ahmed but the envelope has been received back with the remarks”. No such person is available there”
3. Since the show cause notice was only based on documents, the appellant under legal advice chose to not to file a formal reply to show cause notice and instead appeared personally before the proper officer on 25th November, 2024. The appellant explained with the help of ROC documents that since October 2017 there has been a change in the directors of the company and the original director Sh. Abdul Ahmed is no longer with the Company and that the appellant has tried its level best to contact him but all efforts have gone in vain. Regarding bank statement for the month of October 2017 the same was produced along with the original share capital and the present share capital and directors and their names was given to the proper officer duly certified by our statutory auditors LMN & Co.
4. Regarding non intimation of change in Directors it was explained there is no basic change in the organisation structure of the appellant company, it remains a Private Limited Company, the names of directors were not intimated to the department under the Bonafide

belief that it was not required. However, the appellant produced Form No. 32 of company law, that was filed with ROC along with copy of board resolutions accepting the new Directors and their share capital infusion into the Company. ROC is a govt. portal.

5. Regarding the allegation of the proper officer that registration was obtained with false documents, the present management cannot say anything and once the registration was granted by the proper officer, there is an irrebutable presumption that everything was legitimate. In the absence of the person whose documents were to be verified no further comments could be made by the present management. All the necessary documents were filed by the then directors for incorporation of the company on the ROC portal. Which is a govt. portal. ROC had accepted those documents and allowed the company incorporation. However, the authorities below brought nothing on record to prove that the documents filed were false or the appellant company or its directors wilfully submitted the false documents.
6. **The appellant company brought to the notice of the first appellate authority that the proper officer has not been able to satisfy the essential ingredients of Section 29(2)(e) of the DGST Act that is couched in very imperative language i.e. “ registration has been obtained by means of fraud, wilful misstatement or suppression of facts”.**
7. **Noting has been brought on record to even remotely satisfy this requirement except an unsubstantiated allegation only.**

Feeling aggrieved the appellant is approaching this Hon'ble Tribunal to seek fair play and justice.

GROUND OF APPEAL

“The question of law that this Hon'ble Tribunal may have to decide is whether such an unsubstantiated allegation without any cogent or sufficient proof regarding fraud, wilful misstatement or suppression of facts can result into retrospective cancellation and may have the impact of closing the business of the appellant company and affect employments of more than 50 people?”

1. The orders of the lower authorities are simply made on presumptions and conjectures with no substantial proof of any wilful misstatement, fraud or suppression of facts. The appellant has produced bank statements as required, has produced the Form no. 32 filed with the ROC portal and the latest shareholding of each director- to sufficiently prove that the business of the company is genuine. In any case there is no allegation that the business of the company was or is not genuine.
2. The appellant has been running the business for the last 8 years and there is nothing adverse on record. The appellant is a good tax payer, paying tax in cash worth lakhs of rupees every month. Which is evident from the gst returns. The appellant has always filed returns in time and has responded to all the notices at the

earliest with all the documents as required to be produced by the proper officer.

3. THE APPELLANT FUREHR SAYS AND SUBMITS THAT IT IS needless to mention that the show cause notice dated 18.10.2024 became the foundation for issuance of orders dated 11.01.2025 and since the foundation cannot sustain judicial scrutiny, the entire edifice of orders passed thereupon are liable to be set-aside and appeal of the appellant be allowed by restoring the registration certificates of the appellant.
4. The appellant further says and submits that the Show cause notice was just a replication of the legal language of section 29(2)(e) of the CGST Act and failed to furnish any substantial facts about the alleged infractions. No cogent evidence or proof has been brought on record or shown to the appellant to prove that the documents filed by the then Director were false – it is not known whether these documents were ever verified as there is report annexed with the orders.
5. The appellant further says and submits that that the SCN is not able to detail the factual basis sufficiently for invoking Section 29(2)(e) of the CGST law. It is further submitted that show cause notice does not have enough explanation of the factual backdrop or reasons assisting the conclusion of fraud, misstatement, or suppression of facts. These are criminal words and degree of proof is required beyond doubt always.

6. In *Canara Bank vs. Debasis Das and Rajesh Kumar vs. CIT* to the Hon`ble Supreme Court. In the *Canara Bank* case, the Supreme Court noted that **‘Notice is the first limb of this principle. It should be unambiguous. It must inform the party determinatively of the case he has to meet.**
7. The appellant further says and submits that a plain reading of the SCN indicates that same is not intelligible. Although, the SCN alleges that the petitioner has obtained registration by means of fraud, wilful misstatement, or suppression of facts. It does not disclose as to the nature of fraud allegedly committed; statement which is alleged to be a wilful mistake; or the nature of the relevant facts, which are alleged to have been suppressed by the petitioner. There is no cogent explanation or documentary evidence. These are mere unsubstantiated allegations. The impugned cancellation order was void ab initio, having been passed in violation of principles of natural justice.
8. THE appellant further says and submits that Section 29(2) of the CGST Act empowers the proper officer to cancel a taxpayer’s registration, including with retrospective effect, on the grounds as set out in Section 29(2) of the CGST Act. In the present case, the SCN refers to clause (e) of Section 29(2) of the CGST Act which provides for cancellation of a taxpayer’s GST registration if it is obtained by means of fraud, wilful misstatement or suppression of facts. The SCN merely reproduces the statutory provision. It is apparent that the SCN does not meet the requisite standards of a show cause notice inasmuch as it does not enable the notice to meaningfully respond to the allegations on the basis of which an

adverse action was proposed. The cancellation order is also bereft of any reason and does not spell out the grounds for which the petitioner's GST registration has been cancelled.

9. Anwar Ali Vs. The Addl. Commissioner (Hon`ble Delhi High Court). The Delhi High Court set aside the retrospective cancellation of Anwar Ali's GST registration, which was initially cancelled on July 27, 2023, based on a vague Show Cause Notice (SCN) issued on June 28, 2023. The SCN accused Anwar Ali of obtaining his registration through fraud, misstatement, or suppression of facts (Section 29(2)(e) but failed to specify any concrete allegations. Anwar Ali, who had stopped his business shortly after registering with the GST authorities, did not respond to the SCN, leading to the cancellation.

10. TSR Exports Vs. The Superintendent (Hon`ble Telangana High Court). The Telangana High Court set aside the cancellation order of GST registration, based on a vague Show Cause Notice. The SCN accused of obtaining registration through fraud, misstatement, or suppression of facts (Section 29(2)(e) but failed to specify any concrete allegations. The inference drawn is totally absent in the show cause notice. The SCN should spell out the factual backdrop of breach, on the strength of which the department has rejected and concluded that section 29(2)(e) of the Act, can be invoked.

11. The appellant says and submits that the appellant has been doing a legitimate and legal business, which is admitted and there is no allegation on this issue. Every month lakhs of rupees are deposited as tax in GSTR-3B return. The tax payer is a bonafide person and there is no adverse against the him. There is no adverse against the suppliers of the company. The question of cancellation of registration of the registered person has been raised by the department after a period of more than 7 years. The relevant documents as required in the show cause notice have been produced and verified by the authorities below and even the present set of directors and shareholding also filed duly certified by the statutory auditor LMN and Co. Hence, the appellant submits there was no reason for the authorities to pass orders as they have passed. More so, the first AA should have carefully read the provisions of Section 29(2)(e), AND SHOULD HAVE QUASHED THE ORDERS OF THE PROPER OFFICER RESTORING THE REGISTRAITON CERTIFCATES OF THE APPELLANT.

Prayers

In view of the above the appellant prays before your honor that the orders of the first AA be quashed and the registration certificate of the appellant company be restored to its original number. The appellant undertakes to comply with whatever directors this Hon'ble Tribunal may pass in favor of the appellant. The appellant also undertakes to file all the pending returns that can be subjected to verification from the books of accounts of the company within a period of 7 days. The appellant also assures this Hon;ble Tribunal that the

appellant shall produce whatever documents that may be required by the proper officer to prove Bonafide business activities of the appellant company.

The appellant respectfully prays as above.

SD/-

APPELLANT

THRU CA. C K GUPTA

VERIFICATION

VERIFIED ON THIS DAY OF 9TH APRIL 2025, THAT THE CONTENTS OF THE ABOVE APPEAL PETITION ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF AND NOTHING MATERIAL HAS BEEN CONCEALED THEREFROM.

SD/-

APPELLANT

Delhi High Court

Anwar Ali vs The Additional Commissioner Of Gst ... on 31 July, 2024

Author: [Vibhu Bakhru](#)

Bench: [Vibhu Bakhru](#), [Sachin Datta](#)

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	*	IN THE HIGH COURT OF DELHI AT NEW DELHI
Decision: 31.07.2024	%	Date of
	+	W.P.(C) 10265/2024 and CM APPL. 42073/2024
.....Petitioner		ANWAR ALI
Jha, Mr. Rajat		Through: Mr. Vibhas Kumar
Manju Pandey, Advs.		Pandey and Ms.
		versus
		THE ADDITIONAL COMMISSIONER OF CGST DELHI & ANR.
.....Respondents		
Mr.Vishal		Through: Mr.Udit Malik, ASC and
		Chanda, Advocate for GNCTD.
		CORAM:
		HON'BLE MR. JUSTICE VIBHU BAKHRU
		HON'BLE MR. JUSTICE SACHIN DATTA
		VIBHU BAKHRU, J. (Oral)

1. The petitioner has filed the present petition impugning an order dated 22.05.2024 (hereafter the impugned order), whereby the petitioner's application seeking condonation of delay in filing his application for revocation of the cancellation order dated 27.07.2023 (hereafter the cancellation order) cancelling his Goods and Services Tax (GST) registration under the [Central Goods and Services Tax Act, 2017](#) (hereafter [CGST Act](#)), was rejected.

2. The petitioner claims that he is registered with the GST Authorities with effect from 29.12.2022 and was assigned a Goods and Services Tax Identification Number (GSTIN): 07DPPPA2875L1ZE. The petitioner claims that thereafter he carried on his

business for a period of over four months. Thereafter, he filed 'NIL' GST returns as there were no transactions. The petitioner claims that there was no default in filing his returns and the same were filed within the stipulated time.

3. The proper officer issued a Show Cause Notice dated 28.06.2023 (hereafter the SCN) proposing to cancel the petitioner's GST registration. The only reason set out for proposing the cancellation of the petitioner's GST registration reads as under: -

'1 [Section 29\(2\)\(e\)](#)-registration obtained by means of fraud, wilful misstatement or suppression of facts.'

4. The petitioner was called upon to file a reply to the SCN within the period of seven working days from the date of the SCN and was also directed to appear before the proper officer on 05.07.2023 at 11:00AM. Additionally, the petitioner's GST registration was suspended with effect from the date of the SCN, that is 28.06.2023.

5. The petitioner did not respond to the SCN and consequently, the petitioner's GST registration was cancelled by the cancellation order. The cancellation order does not specify any reason for cancelling the petitioner's GST registration; it merely states that same is with reference to the SCN dated 28.06.2023.

6. The petitioner states that on becoming aware of the cancellation order, the petitioner filed an application dated 08.03.2024 seeking revocation of the cancellation order and praying for a condonation of delay in preferring the revocation application. Pursuant to the said application, the petitioner received a notice dated 08.05.2024 affording the petitioner a personal hearing on 16.05.2024. The petitioner claims that his representative (accountant) visited the said building at the appointed date, that is, on 16.05.2024 and found that the building was closed due to a fire incident that had occurred two days prior to that date.

7. Thereafter, the proper officer passed the impugned order rejecting the petitioner's application seeking condonation of delay in filing the revocation application. In the aforesaid circumstances, the petitioner has filed the present petition.

8. The petitioner is not aggrieved by the cancellation of his GST registration as the petitioner claims that he had stopped carrying on his business about four months after he was registered with the GST Authorities. The petitioner is essentially aggrieved by the action of the proper officer to cancel his GST registration ab initio - from the date it was initially granted.

9. A plain reading of the SCN indicates that same is not intelligible. Although, the SCN alleges that the petitioner has obtained registration by means of fraud, wilful misstatement, or suppression of facts. It does not disclose as to the nature of fraud allegedly committed; statement which is alleged to be a wilful mistake; or the nature of the relevant facts, which are alleged to have been suppressed by the petitioner.

10. It is also relevant to refer to Sub-section (2) of [Section 29](#) of the CGST Act, the same is set out below:

"(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,-

(a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or

(b) a person paying tax under [section 10](#) has not furnished the return for a financial year beyond three months from the due date of furnishing the said return; or

(c) any registered person, other than a person specified in clause (b), has not furnished returns for a such continuous tax period as may be prescribed; or

(d) any person who has taken voluntary registration under sub-section (3) of [section 25](#) has not commenced business within six months from the date of registration; or

(e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard:

Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed."

11. [Section 29\(2\)](#) of the CGST Act empowers the proper officer to cancel a taxpayer's registration, including with retrospective effect, on the grounds as set out in [Section 29\(2\)](#) of the CGST Act. In the present case, the SCN refers to clause (e) of [Section 29\(2\)](#) of the CGST Act which provides for cancellation of a taxpayer's GST registration if it is obtained by means of fraud, wilful misstatement or suppression of facts. The SCN merely reproduces the statutory provision.

12. It is apparent that the SCN does not meet the requisite standards of a show cause notice inasmuch as it does not enable the noticee to meaningfully respond to the allegations on the basis of which an adverse action was proposed.

13. The cancellation order is also bereft of any reason and does not spell out the grounds for which the petitioner's GST registration has been cancelled.

14. In view of the above, we consider it apposite to accede to the prayer made by the learned counsel for the petitioner. It is directed that the cancellation order shall take effect from the date of the SCN, that is, with effect from 28.06.2023, and not with retrospective effect from 29.12.2022.

15. We clarify that this will not preclude the respondents from initiating proceedings for any statutory violation, if any or for recovery of tax, if found due in accordance with law. The respondents can also initiate proceedings for retrospective cancellation of the petitioner's registration, albeit, in accordance with law.

16. The present petition is disposed of with the above terms. Pending application is also disposed of.

VIBHU BAKHRU, J SACHIN DATTA, J JULY 31, 2024 at

Telangana High Court

M/S. T S R Exports vs The Superintendent Gst on 18 April, 2024

Author: [N.Tukaramji](#)

Bench: [N.Tukaramji](#)

THE HON'BLE SRI JUSTICE SUJOY PAUL

AND

THE HON'BLE SRI JUSTICE N.TUKARAMJI

WRIT PETITION No.8232 of 2024

ORDER:

(per Hon'ble Sri Justice Sujoy Paul) Heard Sri Shaik Jeelani Basha representing Sri M. Venkatram Reddy, learned counsel for the petitioner, Sri Dominic Fernandes, learned Senior Standing counsel for CBIC, for respondent No.1 and Sri B. Mukherjee, learned counsel representing Sri G. Praveen Kumar, Deputy Solicitor General of India, for respondent No.2.

2. This petition is filed under [Article 226](#) of the Constitution of India takes exception to the order for cancellation of registration in Form GST REG-19 dated 29.11.2023 and order of rejection of application for revocation of cancellation in GSTR REG-05 dated 23.02.2024.

3. Briefly stating, the relevant facts of the case are that the petitioner was served with a show cause notice dated 09.11.2023 for cancellation of registration, in the said notice itself it was mentioned that the registration of the petitioner stands suspended with effect from 09.11.2023. The petitioner was directed to reply and appear in person for hearing at the appointed date. The said show cause notice was followed by the impugned order dated 29.11.2023, which cancelled the registration of the petitioner. Aggrieved, the petitioner preferred an application for revocation of cancellation of registration on 02.12.2023. The said application was rejected by order dated 23.02.2024.

4. Learned counsel for the petitioner submits that the show cause notice dated 09.11.2023 shows that the factual backdrop and alleged breach on the part of the petitioner is not spelled out. The whole show cause notice is reproduction of language of [Section 29 \(2\) \(e\)](#) of the Central Goods and Service Tax Act, 2017 (Act). Thus, the necessary ingredients to form a valid show cause notice were absent. The petitioner had no occasion to file any effective reply to such show cause notice. The entire proceedings of the cancellation of registration and rejection of application for

revocation of registration are founded upon an invalid show cause notice dated 09.11.2023, since the principles of natural justice are grossly violated while issuing show cause notice dated 09.11.2023, the subsequent orders, which are founded on such notice cannot sustain any judicial scrutiny.

5. Sri Dominic Fernandes, learned counsel for respondent No.1, supported the issuance of notice and orders and urged that the implied reading of the application dated 02.12.2023 shows that the petitioner was well aware of the factual basis.

6. No other parts are pressed by both sides.

7. We have heard and perused the entire record.

8. The show cause notice dated 09.11.2023 shows that the singular reason for taking action is that the registration is liable to be cancelled based on [Section 29 \(2\) \(e\)](#), which says that "registration is obtained by means of fraud, wilful misstatement or suppression of facts."

9. We find subsistence in the argument of the learned counsel for the petitioner that the factual backdrop or the reason on the strength of which, conclusion of fraud or misstatement or suppression of facts was drawn is totally absent in the show cause notice. The show cause notice, in our considered opinion, should spell out the factual backdrop of breach, on the strength of which the department has rejected and concluded that [Section 29 \(2\) \(e\)](#) of the Act, can be invoked. If minimum factual backdrop and nature of breach is not mentioned with accuracy and precision, the petitioner was not in a position to file reply.

10. The Apex Court expressed the need of issuance of such notice in [Canara Bank vs. Debasis Das](#) 1, at para No.15, which reads as under:

"15. ... Notice is the first limb of this principle. It must be precise and unambiguous. It should apprise the party determinatively of the case he has to meet. Time given for the purpose should be adequate so as to enable him to make his representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated. Thus, it is but essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play. The concept has gained significance and shades with time. ..."

11. In the [Rajesh Kumar vs. CIT](#) 2, the Apex Court at para No.61, held as under:

61. ...The notice issued may only contain briefly the issues which the assessing officer thinks to be necessary. The reasons assigned therefor need not be detailed ones. But, that would not mean that the principles of justice are not required to be complied with. Only because certain consequences would ensue if the principles of natural justice are required to be complied (2003) 4 SCC 557 (2007) 2 SCC 181 with, the same by

itself would not mean that the court would not insist on complying with the fundamental principles of law. ..."

12. This Court in M/s. Sri Avanthika Sai Venkata vs. Deputy State Tax Officer 3 and M/s. [S.B. Traders vs. The Superintendent](#) 4, interfered with the impugned proceedings and order therein because the reasons were not mentioned while initiating proceedings against the petitioners therein.

13. Needless to mention that the show cause notice dated 09.11.2023 became the foundation for issuance of orders dated 29.11.2023 and 23.02.2024, since the foundation cannot sustain judicial scrutiny, the entire edifice of orders passed thereupon are liable to be jettisoned.

14. We do accordingly and set aside the show cause notice dated 09.11.2023, order dated 29.11.2023 and order dated 23.02.2024, since interference by us is for not following the principles of natural justice, the respondents can proceed against the petitioner from appropriate stage. However, since the impact of setting aside the show cause notice dated 09.11.2023 automatically restores the registration of the petitioner, it is made clear that if any Input Tax W.P.No.1596 of 2024 decided on 23.01.2024.

W.P.Nos.39498 and 39502 of 2022 decided on 28.10.2022. Credit (ITC) remains unutilized, the petitioner shall not be permitted to utilize the same till the finalization of the show cause proceedings as directed above.

15. In the result, the present Writ Petition stands allowed to the above extent.

There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand closed.

Date: 18.04.2024 GVR

SUJOY PAUL, J _____ N.TUKARAMJI, J

ANNEXURE - A

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

Date: 18th October 2024

KHANNA ENTERPRISES PRIVATE LIMITED
Katra Balinan
Delhi 110 006
GSTIN No.... 123456789

YOUR Show cause notice under section 29(2) of the DGST Act read with CGST Act and DGST Rules proposing to cancel your registration certificate w.e.f. 01.07.2017

WHEREAS as per verification of your registration folder and as per inquiries received from other Centre, I have observed that the documents filed by you as per registration application are not verifiable either from your records or from the records available on line on the government portals. And in the absence of such verification your registration seems to have violated the provisions of section 29(2)(e) of the DGST Act 2017.

In this connection you are required to bring on record the minute book of the company for the month of October 2017, the original KYC documents of the Director Shri Abdul Ahmed who has signed the registration application and his original PAN Card and Adhaar Card for verification and his share capital account in the company. Further the original bank account of the company for the month of the October 2017 be also brought on record duly certified by your statutory auditor, LMN. & Co. I had sent notice at your registered business place in the name of Mr Abdul Ahmed but the envelope has been received back with the remarks". No such person is available there".

You are required to show cause, in the absence of original records and in the absence of absence of this Director, why should the provisions of Section 29(2)(e) be not invoked and your registration certificate be cancelled retrospectively w.e.f. 1.10.2017.

You are therefore required to bring that Director as a witness in my chamber along with his original KYC documents, original bank statement of OBC Karol Bagh duly certified by the statutory auditor of the company LMN & Co and be present till your statements are recorded and documents verified with originals. You are required to attend to my office on 18th November 2024 at 10AM sharp and be present till you are directed to go.

DIGITAL SIGNATURES.
`` ASSISTANT COMMISSIONER
ZONE 10

ANNEXURE – B

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

Date: **25 NOVEMBER 2024**

KHANA ENTERPRISES Private Limited
Katra Balinan
Delhi 110 006
GSTIN No.... 123456789

Show cause notice under section 29(2) of the DGST Act read with CGST Act and DGST Rules DATED 18TH OCTOBER proposing to cancel your registration certificate w.e.f. 1.7.2017.

PRESENT Shri S K Sharma Advocate along with Director of the company Shri Raj Kumar Sharma. The taxpayer has explained that due to personal reasons of the counsel they could not appear on 18th November 2024. Since no further action has been initiated on show cause notice by the undersigned their request is accepted and they are allowed to present their case today.

In response to the show cause notice no formal reply has been filed by the tax payer. On queries regarding original documents submitted at the time of registration to obtain GSTIN they have submitted that the directors of the company have changed long back and the director who has signed the application has since resigned and they do not have his whereabouts. When questioned as to why they did not inform the change about the directors and the management, there was no answer either from the counsel or from the director. When further questioned how the same director who had resigned has continued to be authorised signatory there was no satisfactory answer to this question as well. The taxpayer tried to explain the huge turnover company is reporting, about the genuine business they are conducting etc but the moot question was whether the registration was obtained through genuine documents or not was not even addressed by the counsel or by the director. All the documents were shown to them physically and also the reports about these documents not verifiable were also shown to them.

Heard the counsel at length and also perused the records available. In view of no reply to show cause notice and no submission or original documents for

verifying the documents filed at the time of registration, it is clear that the registration was obtained with false documents, without any board resolution (no minute book produced) and a farzi man was planted to obtain registration.

In view of the provisions of section 29(2)(e) of the DGST Act and in view of the specific show cause notice, I am left with not choice but to order cancellation of registration certificate of the tax payer w.e.f. 1.10;2017 and it is ordered accordingly.

The tax payer is directed to surrender the original certificate within seven days from the date of this order.

The taxpayer shall be subjected to assessment as per provisions of law soon thereafter as per due process of law.

Digitally signed
Assistant Commissioner
Zone 10

ANNEXURE - C

BEFORE THE JOINT COMMISSIONER (APPEALS) ZONE 10, DGST
DEPTT, NEW DELHI

IN THE MATTER OF: KHANNA ENTERPRISES Private Limited
Katra Balinan
Delhi 110 006
GSTIN No.... 123456789

DIN No.....Dated 11.01.2025

Present for the appellant: Shri S K Sharma Advocate and Raj Kumar Sharma,
Director.

This is an appeal against the orders of the adjudicating authority dated 29th November 2024 where by the adjudicating has retrospectively cancelled the registration certificates of the tax payer under section 29(2)(e) of the DGST Act by following procedure as per law including a show cause notice specific as per law, providing personal hearing to the taxpayer and allowing sufficiency time to produce evidence in rebuttal of the allegations in the show cause notice dated. 18th October 2024.

2. I have pursued the ward records, documents filed at the time of registration in October 2017 and the file notes put on by the proper officer regarding original verification through physical visit. I have also carefully gone through the show cause notice and the submissions made by the taxpayer at the time of personal hearing on each and every allegation in the show cause notice; thought no written reply was filed by the tax payer.

3. The central question is interpretation of section 29(2)(e) of the DGST Act read with CGST Act read with relevant Rules. This provision is independent code in itself and the proper officer has been empowered to sue Moto cancel the registration certificate of any defaulting registered tax payer from such date as he may deem fit and proper including retrospective cancellation. I have carefully examined the show cause notice and I observe that the proper officer was diligent about the law and have issued a specific show cause notice.

4. Heard the counsel at length. He has reiterated the grounds of appeal and has taken me through the turnovers of the company. But he has failed to satisfy me about the genuineness of the documents filed at the time of registration. The

power given to the proper officer under the above provision is specific and not controlled by any other provision. The question of genuine turnover or genuine business conducted by the company is not before me nor has been debated by the adjudicating authority. Hence, on such answers no benefit could be given to the taxpayer.

5. Further the taxpayer has questioned the delayed action on the part of the proper officer to initiate action under section 29(2)(e), and when questioned is there is any bar to such an action, no answer could be given by the counsel nor any other provision could be shown. Further the argument of the counsel that whole business will suffer irreparable loss to the company and many jobs will be lost.

6. On the question about not informing the department about the changes in director or changes in management, the counsel regretted the lapse and was willing to pay the fine or penalty that may be livable under the law.

The department's reply was on the lines of show cause notice and observations made in the impugned order.

On carefully going the reports of the department, arguments of the counsel and the statements of the director made during the course of hearing, I cannot find any reason to interfere with the statutory power given to the officer under section 29(2)(e) of the DGST Act which is an independent power and the adjudicating office has followed the law and the procedure strictly and has provided sufficiency opportunities to the appellant to prove the genuine of the documents filed at the time of grant of registration. In the circumstances of this matter it is clear the provisions of section 29(2)(e) have been correctly invoked, the documents being false and willfully given by the company. No other evidence has been brought on record even during appellate proceedings to rebut those allegations. Other violations are also of serious nature under section 29(2)(a) but all in all, the registration certificate of the appellant company has been rightly cancelled as it should have. The argument of delayed action on the part of proper officer is also rejected as there is no time limit fixed in the law.

Hence, the appeal filed by the appellant is devoid of any merits and is hereby dismissed. The proper officer is directed to complete the assessments of the company for all the tax periods as per law and recovery the amount of tax due, if any.

Ordered accordingly,

Digitally signed.

Joint Commission (Appeals)

Zone 10

***Section 29. Cancellation ¹[or suspension] of registration.-**

(1) The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,-

(a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or

(b) there is any change in the constitution of the business; or

²[(c) the taxable person is no longer liable to be registered under [section 22](#) or [section 24](#) or intends to optout of the registration voluntarily made under sub-section (3) of [section 25](#):]

¹[**Provided** that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be [prescribed](#).]

(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,-

(a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be [prescribed](#); or

(b) a person paying tax under [section 10](#) has not furnished ³[the return for a financial year beyond three months from the due date of furnishing the said return]; or

(c) any registered person, other than a person specified in clause (b), has not furnished returns for a ⁴[such continuous tax period as may be prescribed]; or

(d) any person who has taken voluntary registration under sub-section (3) of [section 25](#) has not commenced business within six months from the date of registration; or

(e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard:

¹[**Provided** further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be [prescribed](#).]

(3) the cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

(4) The cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.

(5) Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be [prescribed](#):

Provided that in case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be [prescribed](#) or the tax on the transaction value of such capital goods or plant and machinery under [section 15](#), whichever is higher.

(6) The amount payable under sub-section (5) shall be calculated in such manner as may be [prescribed](#).