

**BEFORE THE GOODS AND SERVICES TAX APPELLATE
TRIBUNAL, DELHI BENCH, NEW DELHI**

APPEAL No. _____ of 2025.

IN THE MATTER OF:

RADHIA ENTERPRISES PRIVATE LIMITED
GSTIN 123456789
South Extension
NEW DELHI

..... **Appellant**

VERSUS

THE JOINT COMMISSIONER (APPEAL),
Zone-10,
Delhi Goods & Services Tax Department
ITO,
Delhi

..... **Respondent**

Particulars of order against which the Appeal is made:

- i. OIO no.**
- ii. Dated: 27.05.2025**
- iii. Passed by: The Joint Commissioner (Appeals),**
Zone-10,
Delhi Goods & Services Tax Department
ITO,
Delhi

1. STATEMENT OF FACTS

(Appended as Annexure- 3)

Appeal against the Order Ref No....., issued in form APL-04 vide reference no., dated issued u/s 107(11) of the CGST Act, 2017.

Your humble Appellant respectfully begs to submit statement of facts as under: -

- I. The appellant, **M/S RADHIA ENTERPRISES PRIVATE LIMITED** (hereinafter referred to as "*the Company*" or "*the Appellant*"), having principal place of business at **South Extension, New Delhi**, are duly registered under the Central Goods and Services tax Act, 2017 and Delhi Goods and Services tax Act, 2017 read with section 20 of Integrated Goods & Services tax Act, 2017, bearing **GSTIN 123456789**. The Appellant is engaged in manufacturing of power backups or invertors and also engaged in trading practices of Hybrid Batteries.
- II. The adjudicating authority i.e. The Assistant Commissioner, Zone-10 issued the Show Cause Notice U/s 29 (2) of the DGST Act, 2017 dated 10-10-2024 served upon the appellant on 10-11-2024 proposing to cancel the registration certificate of the appellant on account of the non-filing of the return for the period of past 8 months and it is noteworthy that the respondent has also taken various points which are deemed fit *pari materia* for the notice of scrutiny of returns/records U/s 61/73/74 of the Act of 2017. However, since the notice is being issued under section 29 which delineates the situation where the registration of the taxpayer

is liable to be cancelled. It is noteworthy that the due date to file the reply was 20-11-2024.

(A Copy of the SCN is appended as **Annexure-6**)

- III. The Appellant received the notice on 10-11-2024, thereby, the due date to reply was deemed to be on 17-11-2024 as per stipulated Rules in the Act, however, the appellant replied to each point in the reply filed belatedly on 27-11-2024. The reason for the delay is the non-availability of the legal attorney as the counsel was not in the vicinity. It is worthy to note that the appellant had sought additional time of 15 days for compilation and submission of desired set of supporting documents.

(A copy of the reply filed is annexed as **Annexure-7**)

- IV. The adjudicating authority had issued three reminder notices on 13th of December 2024, 20th of December 2024; and 27th December 2024. However, the appellant was unable to respond due to accountant's illness which is something beyond the control of appellant to compile and submit the documents therefore the reply before the submission could not be made. The proper officer was made aware of the facts and circumstances of the case still he went on to issue continuous notices mechanically without taking into account the circumstances prevailing which shows the predetermined mindset of the proper officers to issue the cancellation order and prejudice the appellant's business.

- V. The adjudicating authority, eventually went on to issue the cancellation of the registration order on 11-01-2025 U/s 29 (2) of the DGST/CGST Act, 2017 with the retrospective effect w.e.f. 1-07-2017.
(A copy of the cancellation order is annexed as **Annexure -8**)
- VI. The Appellant, aggrieved from the impugned cancellation of registration order, preferred an appeal under the ambit of Section 107 of the CGST Act, 2017 to the Hon'ble First Appellate Authority presided by the learned respondent, on 27-04-2025 stating the detailed grounds for the non-compliance, however, went in vain as the appellant got the appeal rejected by the erudite authority citing the reason that the appeal got time barred.
(A copy of the appeal dismissed order is appended as **Annexure-9**)
- VII. Being aggrieved by the impugned order the Appellant filed the appeal on the various grounds, which are as under:

2. Jurisdiction of the Authority

The Appellant hereby states that the Subject matter of impugned order against which the appeal is made is within the jurisdiction of this Hon'ble Appellate Tribunal.

3. Limitation

The Appellant submits that the respondent passed the order dated **27-05-2025** (fictitious) and pertaining to the provisions of section 112 of the Central Goods and Services Act, 2017, this appeal is made within the time stipulated in the enactment i.e.

within 3 months of the communication of the order i.e. on **27-07-2025**. The due date to file this appeal is **27-08-2025**.

4. List of the events

For the purpose of clarity of issues, the factual matrix of the case is delineated as under: -

S.NO.	DATE	EVENTS
1.	10.10.2024	Show Cause Notice issued by the Assistant Commissioner proposing the suspension of registration.
2.	27.11.2024	Comprehensive reply filed against show cause notice elucidating each discrepancy.
3.	11.01.2025	The Assistant Commissioner passed the cancellation of registration order.
4.	27.04.2025	The Appellant preferred an appeal to the respondent, i.e. The Joint Commissioner (Appeals) against the order passed by the Assistant Commissioner.
5.	27.05.2025 (fictitious)	The learned respondent dismissed the appeal stating that the appeal is being filed after the time specified in Section 107 of the CGST Act, 2017.
6.	27.06.2025	Appeal submission against the impugned order of rejection of appeal passed by the respondent.

APPELLANT

5. GROUNDS OF APPEAL

(Appended as **Annexure- 4**)

The Appellant, *inter-alia*, raises the following important and substantial questions of law regarding infirmities, legalities as well as the power of The Joint Commissioner (herein, **Respondent**) while passing the impugned order, on the following grounds: -

- VIII. Whether the Respondent tried to duly consider that the Appellant had not yet filed an application for condonation of delay, and if the Respondent had a pre-determined intention to reject the appeal, what was the justification for conducting a hearing as mentioned in the impugned order?
- IX. Whether the respondent has considered that the first appeal was filed within the extended timeframe as enumerated in the provisions of Section 107 of the CGST Act, 2017? The non filing of application for condonation of delay is just a procedural lapse and cannot amount to such a harsh action on the appellant.
- X. Whether the respondent has verified the reason for the appellant's inability to file the remaining four returns, considering that the adjudicating authority had suspended the appellant's GSTN well before the conclusion of the Show Cause Notice proceedings, thereby rendering the GST common portal inaccessible for return filings once the GSTN stands suspended or cancelled.

- XI. Whether the learned respondent has checked the documents submitted by the appellant in which it can be verified that the appellant has accepted its liability of interest on late filing of returns and undertook to discharge the same once the SCN proceedings got concluded, however, the GSTIN got cancelled by the adjudicating authority?
- XII. Whether the respondent has checked if the adjudication has followed the principal laid down by **The Hon'ble Delhi High Court** in the case of **M/s Abhishek Appliance (P.) Ltd. v. Assistant Commissioner CGST [Writ Petition (Civil) No. 8920 of 2024 dated July 03, 2024]** in which Hon'ble court ruled that:
- “an Assessee should be given an opportunity to respond the allegations and submit the evidence regarding place of business. Hence, the matter remanded for reconsideration after affording personal hearing was provided to the Assessee and writ petition was disposed of.”*
- XIII. Whether the provisions of **Article 19 (1)(g)** of the constitution of India given to the appellant, which states that to practise any profession, or to carry on any occupation, trade or business?
- XIV. Whether the provisions of **Article 21** of the constitution of India given to the appellant, in which the Hon'ble Supreme Court of India delivered the series of landmark judgements?

- XV. Whether the constitutionality of the pivotal case of ***Maneka Gandhi v. Union of India (1978)***, in which the Hon'ble Supreme Court broadened the horizons of personal liberty under Article 21, emphasizing that the right to be heard is inherent in the principles of natural justice and, therefore, a constitutionally protected right, followed by the respondent?
- XVI. Whether the case of paramount importance, ***A.K. Kraipak v. Union of India (1969)***. In which it was established that the principles of natural justice, including the right to be heard, **are applicable not only to judicial and quasi-judicial bodies but also to administrative functions. Administrative actions devoid of this fundamental right were deemed arbitrary and in violation of Article 14, the Right to Equality.**
- XVII. Whether the respondent have powers to ignore the landmark judgement of ***State of Orissa v. Dr. Binapani Dei (1967)***, In which, the Hon'ble Supreme Court held that 'the right to be heard is a fundamental right, and a person cannot be condemned unheard, even in cases involving disciplinary actions.'?

6. Details of remedies exhausted.

The Appellant hereby states that he has availed the remedy enumerated under section 107 of the CGST Act, 2017 and got the rejection order on 27.05.2025. The appellant is preferring this present Application for Appeal to this Hon'ble Tribunal against the impugned order dated

27.05.2025 under the ambit of Section 112 of CGST Act, 2017. The due date to file the appeal is **27.08.2025**.

7. Matter not previously filed or pending in any authority.

The Appellant further states that the present matter is not *pendente lite* before any authority as the appellant is in possession of the order passed by the first appellate authority. This is the second remedy of appeal availed by the Appellant.

RELIEF (S) SOUGHT/ PRAYER

(Appended as **Annexure- 5**)

In view of above, it is respectfully prayed that this Hon'ble Tribunal may please to:

1. Set aside the Appeal rejection Order dated **27.05.2025** passed under the ambit of Section 107(11) of the CGST Act, 2017.
2. Set aside the ***cancellation of the Registration order*** passed by the proper officer (as stated *supra*) and allow the appellant to pay the interest on the late filing of the returns and allow the appellant to file the remaining returns as the appellant is unable to file the return due to cancellation of registration.
3. Set aside the impugned order and remand back the case to the first appellate authority for reconsideration after providing reasonable opportunity to the appellant or any relief this Hon'ble Tribunal deems fit.
4. Reserves its right to file additional submissions/documents and alter the prayer at any stage during the proceedings of this appeal.
5. Pass such further or other order as may be deemed necessary in the circumstances of the case.

For this act of kindness, the Appellant shall be extremely grateful to you.

APPELLANT

**BEFORE THE GOODS AND SERVICES TAX APPELLATE
TRIBUNAL, DELHI BENCH, NEW DELHI**

APPEAL No. _____ of 2025.

IN THE MATTER OF:

RADHIA ENTERPRISES PRIVATE LIMITED
GSTIN 123456789
South Extension
NEW DELHI

..... **Appellant**

VERSUS

THE JOINT COMMISSIONER (APPEAL),
Zone-10,
Delhi Goods & Services Tax Department
ITO,
Delhi

..... **Respondent**

AFFIDAVIT

I, Dr. Rahul Kakkar- Advocate, Authorized representative of **M/S RADHIA ENTERPRISES PRIVATE LIMITED**, the Appellant, do hereby declare that the contents of the memorandum are true to the best of my knowledge and belief and shall deliver the duties as per the ethical principles enumerated in the Advocates Act, 1961.

I, Authorized Signatory of **M/S RADHIA ENTERPRISES PRIVATE LIMITED**, do hereby, affirm my consent and authorise Dr. Rahul Kakkar- Advocate to act, appear and plead on behalf of the company.

Signed and verified this on the 25th day of April 2025 at Delhi.

DEPONENT

SHOW CAUSE NOTICE

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

DIN NO. Date: 4th DECEMBER 2024

RADHIA ENTERPRISES PRIVATE LIMITED
SOUTH EXTENSION
NEW DELHI
GSTIN No.... 123456789

DIN NO.....

Date: 10.10.2024

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

Whereas the examination of your file and data on portal has revealed the following:

1. That your returns for the last 8 months have not been filed;
2. That right from 1.7.2017 you have never filed returns in time and every time you filed the return you have paid the fine but did not deposit the interest as per law
3. That AI portal of the department shows that you have been making purchases from the non -genuine dealers, more so YOUR MORE THAN 70 percent of purchases are from two registered dealers i.e. A^& CO and B & Co as per annexure annexed with this show cause notice.
4. That the returns as filed by you under section 39 also do not seem to be correctly filed as the figures show huge variation with the purchases vis a vis outward supplies and your business premises records as available with the department do not justify such big stock holding
5. That the KYC documents as available on record of the director who signed the registration application are also not available on record and whatever is available does not seem to be right.
6. That in your returns filed HSN codes are not given as per law – more so the purchases and supply do not reconcile HSN coding .

In view of the above after carefully examining the above records available on my file and on AI portal of the Department, you are required to show cause why should your registration certificate be not cancelled?

Till the disposal of this show cause notice, I hereby suspend your registration certificate with immediate effect, the same be restored if your explanations to the above points is found suitable. **The reply must be filed by 20.11.24**

DIGITALLY SIGNED
ASSISTANT COMMISSIONER
ZONE 10

ASSISTANT COMMISSIONER
ZONE10

REPLY TO SCN

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

DIN NO. Date: 4th DECEMBER 2024

RADHIA ENTERPRISES PRIVATE LIMITED
SOUTH EXTENSION
NEW DELHI
GSTIN No.... 123456789

Dated...27.11.24

Reply to your show cause notice dated 10.10.24.

Sir,

We have received the above show cause notice and it is quite shocking that you propose to cancel our registration certificate on grounds which at best are presumptive and have no linear linkage with the factual matrix of the matter.

Our point wise reply is as follows:

1. That due to very poor financial condition of the company and change in technology of the products we manufacture, the demand for products came down drastically resulting in stock pile and virtually no sales. Whatever sales have happened were on credit and the buyers are still to pay. We have been trying to manage the funds from external sources and from directors and we have managed some funds and filed returns for the four tax periods from April 24 to July 24 and the rest are in the process of being filed soon. May be maximum 15 days more. The technology to manufacture power backs was changed to hybrid to lithium batteries and as this transition was huge and our company got stuck with heavy stocks.
2. We admit that our return for the last two years were being filed late. We are in the process of depositing the interest wherever it is due.
3. A&CO and B &CO are the biggest importers of hybrid batteries and our transactions are in the due course of business. We have all the documentary evidence like tax invoices, bank payments, physical receipt of goods from them and regular email exchanges with them and hence it is not correct to state that these parties are not genuine. Without these purchases our factory could have been shut long back.
4. All our returns filed are correctly filed and you have failed to point out any deficiency in the returns filed and hence we are unable to answer the same.
5. The Director Mr K C Malhotra has resigned and left the company in 2018 itself and the entire management got changed as per ROC Resolutions filed that are

annexed. We are not aware nor we were made aware of such deficiencies. We shall try to contact him and bring on record the required KYC documents for verification. We need time up to 10.12.2024 to complete this exercise and we request accordingly. There was nothing wrong as such as he was the promoter director of the company and only on his signatures registration could have been obtained.

6. HSN Codes as per import documents and as our tax invoices are sometimes at variance but the items are covered within that HSN classification and there is no tax rate difference. We can file the reconciliation for each tax period as and when required. And if there is any tax difference this is a manifest error as we have sold exactly what we have procured without making any value addition in so far as our trading business is concerned.

In view of the above we pray as follows:

- 1) THAT OUR REGISTRATION SHOULD NOT BE SUSPENDED TILL DISPOSAL OF THIS SHOW CAUSE NOTICE;
- 2) YOUR PROPOSAL TO CANCEL OUR REGISTRATION CERTIFICATE BE KEPT IN ABEYANCE TILL WE ARE ABLE TO COMPLETE THE REQUIREMENTS AS MENTIONED IN THIS REPLY.

We pray accordingly.

For Radhika Enterprises Private Limited

Director
Thri Rahul Kakkar, Advocate

ORDER

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

DIN NO. Date: 4th DECEMBER 2024

RADHIA ENTERPRISES PRIVATE LIMITED
SOUTH EXTENSION
NEW DELHI
GSTIN No.... 123456789

DIN NO....

Date 11.01..2025

Sub: Cancellation of registration certificate as above w.e.f. 1.7.2017

Whereas the above mentioned registered tax payer was issued a show cause notice on 10.11.2024 and he filed reply on 27.11.24. IN that notice he took time file documents for certain issues within 15 days. But he failed to do so. The time sought was up to 10.12.2024 that was granted.

Notices were hand served to the tax payer on 13.12.2024, 20.12.24 and again on 27.12.24 directing the taxpayer to comply with the requirements of the show cause notice dated 10.12.24 which he has duly replied. The tax payer is therefore fully aware of the issues confronted to him but it is clear he has wilfully avoided giving information and he has failed to appear inspite of clear service of three notices on the portal as well as in person through officer of this ward.

As mentioned in the show cause notice the whole business affairs of the tax payer are in contradiction to the law and rules laid down in CGST Act read with DGST Act; his returns for 8 months were not filed (though he filed for four months), his returns till December 2024. L

To still give the opportunity of being heard to the tax payer, last notice of 27.12.24 was sent through inspector of the ward who found the business premises of the taxpayer closed and the shopkeepers informed him that the company has shifted its business long back. I have checked the records on the portal, there is no information given by the tax payer.

The taxpayer has not filed returns, his returns filed are incomplete, there are variations in HSN codes for procurement and supplies, KYC of registration documents is not proved, all his returns till today have been filed late, his input tax credit as per revenue records is from non -genuine suppliers and above all the taxpayer has seriously avoided coming forward to face the law and answer the queries, his registration certificate was suspended and still he failed to appear. It is more than clear therefore that the taxpayer's business is not as per due process of law and he has been flouting the rules of the law regularly.

IN view of the above I do not think it would be necessary to allow him more opportunities.

Hence, in terms of my power under Section 29(2) and keeping in view the activities of the tax payer and his wilful defiance of law and the notices sent to him, I hereby cancel his registration certificate retrospectively w.e.f 1.7.2017 and from this date he would be deemed to be not registered in terms of Section 25.

Proceedings for determining the tax due from him for recovery as per provisions of law shall be initiated separately and penalty if any for non -appearance shall be imposed separately.

The tax payer is directed to return the registration certificates in original immediately.

The order also be served at the last known address of the tax payer including on directors as per records.

DIGITALLY SIGNED
ASSISTANT COMMISSIONER
ZONE 10

ASSISTANT COMMISSIONER
ZONE10

FIRST APPEAL ORDER

BEFORE THE JOINT COMMISSIONER (APPEAL) ZONE 10 GST DEPTT DELHI

**RADHIA ENTERPRISES PRIVATE LIMITED
SOUTH EXTENSION
NEW DELHI
GSTIN No.... 123456789**

PRESENT FOR THE TAXPAYER

**DR RAHUL KAKKAR
ADVOCATE**

**APPEAL. UNDER SECTION 107(1) OF THE DGST ACT READ WITH CGST ACT
AGAINST THE IMPUGNED ORDER OF THE ASISSTANT COMMISSIONER, ZONE
10 DATED 11.1.2025**

Brief facts leading to this appeal are that the taxpayer is the manufacturer of power back ups or invertors and also trader in hybrid batteries. He has been regularly defaulting in filing returns and his business activities were also doubted by the proper officer. A show cause notice was issued to him by the proper officer, duly served on him, on 10.11.24 to which the taxpayer filed reply on 27.11.24 and sought time up to 10.12.24 to file certain documents but the tax payer did not file the reply. The proper officer sent another three notices and one notice through inspector of the ward wherein in his report the inspector informed the proper officer that the firm had shifted long back from the business premises. On checking the proper officer found that there was no information given to the department. And hence based on issues raised in the show casue notice dated 10.12.24 the proper officer did not find any satisfactory explanation coming from the tax payer and inspite of three more opportunities given to the tax payer, the proper officer got no reply or explanations resulting in cancellation of registration certificate of the taxpayer retrospectively w.e.f. 1.7.2017.

HEARD DR RAHUL KAKKAR advocate for the appellant.

He has tried to reiterate the points replied in the reply filed to the show cause. He has filed certain documents like returns their acknowledgements and also vehemently argued on all the issues raised by the proper officer and prayed for more time to file returns. Regarding 70 percent purchases from the non -genuine tax payers, he was confronted with the report sent by the proper officer to my office for which his reply was that all the transactions were genuine and in due course of business and he is not aware of any thing being non genuine about those suppliers who as per him are the biggest importers of hybrid batteries. He has filed their account ledgers and highlighted the bank payments made to them. He has also filed invoices issued by them and also filed invoices issued by the tax payer ot his buyers to show that whatever was purchased was sold as such to the buyers of the taxpayer. He has

quoted judgments, especially of Supreme Court in Arise India case and in the case of E Com Coffee Gill (under DELHI VAT ACT AND UNDER KARNATAKA VAT ACT) and also filed some judgments of the Calcutta High Court and Madras High Court on the issue that the buyers cannot be denied input tax credit under GST law based on suppliers' non filing of returns etc.

The counsel was asked that the order of the proper officer was put on the portal on 11.1.25 and hence served as per law but the appeal has been filed on 27.4.25 which is beyond the limitation period and why should the appeal not be dismissed as time barred, more so when there is no condonation application filed with the appeal. The counsel had no answer but tried to seek time to file application for condonation of delay after the statutory period. No substantial law was shown to the undersigned whether such an application can be filed when appeal is taken up for hearing nor any Rule or Section was shown to the undersigned. Even at this stage of appeal the casual approach of the taxpayer is writ large.

Further on merits also I found that there is nothing with the dealer at this stage that could convince the proper officer or the undersigned about his activities being above board as there is a suspicion all around his entire dealings. Hence, on merits too the appellant does not seem to have any strong case.

In view of the above, his appeals are dismissed as time barred. The proper officer is free to proceed further as per provisions of law.

Digitally Signed
Joint Commissioner (Appeal)
Zone X