



2026:AHC:52689

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT TAX No. - 8009 of 2025

M/S New Bharat Electricals

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)

: Pooja Talwar

Counsel for Respondent(s)

: C.S.C.

Court No. - 33

HON'BLE VIKAS BUDHWAR, J.

1. Heard Ms. Pooja Talwar, learned counsel for the writ petitioner and Sri Ravi Shankar Pandey, learned Standing Counsel for the State.

2. Since counter and rejoinder affidavits have been exchanged between the parties and the rival parties do not propose to file any further affidavit, the writ petition is being decided at the fresh stage.

3. The writ petitioner claims to be a registered dealer having valid GSTIN No. 09A ED EK 613 1Q16G under U.P. GST Act, 2017 which is engaged in execution of work contracts. A show cause notice came to be issued for cancellation of the registration on 24.02.2024 by the Assistant Commissioner, Lalitpur, Sector-1, Jhansi, second respondent. According to the writ petitioner, the writ petitioner did not acquire knowledge of the show cause notice as the same was not served as per the procedure prescribed under Section 169 of the U.P. GST/CGST Act, 2017. Thereafter, on 06.07.2024, an order for cancellation of the registration came to be passed by the second respondent, Assistant Commissioner, Lalitpur, Sector-1, Jhansi. Since the order dated 06.07.2024 cancelling the GST registration was an ex parte non speaking unreasoned so the writ petitioner preferred an appeal under Section 107 of the Act before the third respondent, Additional Commissioner, Grade-2 (Appeal), Jhansi on 27.08.2024 beyond the limitation period being 06.10.2024 taking ground for condonation of delay, the said appeal so preferred by the writ petitioner came to be rejected on 18.09.2025.

4. Questioning the same, the present writ petition came to be preferred.

5. This Court entertained the writ petition on 08.01.2026 while seeking instructions.

6. A counter affidavit came to be filed by the learned Standing Counsel sworn by Assistant Commissioner, State Tax, Sector-01, Lalitpur dated 04.02.2026 to which a rejoinder affidavit came to be preferred. Thereafter on 09.03.2026, learned Standing Counsel produced before this Court the order dated 18.09.2025 passed by the Additional Commissioner, Grade-2, (Appeal), Jhansi being a speaking order rejecting the appeal. Thereafter, an amendment application came to be preferred which was allowed on 11.03.2022. Now, the order is before this Court.

7. Learned counsel for the writ petitioner has sought to argue that the orders impugned cannot be sustained even for a single moment. Elaborating the said submission, it is contended that so far as the original order is concerned passed by second respondent, the same is not only non speaking but it is also an ex parte passed by without application of mind for the simple reason that though a show cause notice came to be issued to the writ petitioner dated 24.02.2024 allegedly fixing 05.03.2024 for hearing but the show cause notice was not served upon the writ petitioner. Submission is that the said notice is alleged to have been served through E Mail and Mobile number registered on the portal but according to the writ petitioner, the same was at no point of time served upon the writ petitioner. Further submission is that in view of the judgment in the case of **M/s Bambino Agro Industries Ltd. Vs. State of U.P. : Writ Tax No. 2707 of 2025** decided on 19.12.2025, it was incumbent upon the respondents to have effectuated service personally through registered post and further there is nothing on record to show in the order impugned dated 06.07.2024 as to when the show cause notice came to be served and the writ petitioner despite service did not tender his reply. It is also contended that the order dated 18.09.2025 rejecting the appeal passed by the third respondent, Additional Commissioner, Grade 2 (Appeal), Jhansi is also not liable to be sustained particularly when once the writ petitioner had taken specific grounds for condonation of delay then the appellate authority was under obligation to consider the grounds though it might accept or reject the same but consideration was a condition precedent which has not been done in that regard. Reliance has also been placed

upon the judgment in **Writ Tax No. 1865 of 2024 (M/s One Infrastructure Vs. State of U.P.)** decided on 02.05.2025 and **Writ Tax No. 626 of 2020 (M/s Ansari Construction Vs. Additional Commissioner Central Goods and Services Tax (Appeals) and two others)** decided on 24.11.2020.

8. Learned Standing Counsel, on the other hand, contended while refuting the submission so made by the learned counsel for the writ petitioner has submitted that the writ petitioner knew about the show cause notice and despite the fact that the same stood served upon the writ petitioner and the writ petitioner did not tender reply resulting to the fact that the order in original came to be passed and the appeal also came to be preferred with delay which has been rightly rejected.

9. I have heard the submission so made across the bar and perused the record.

10. Apparently, the writ petitioner impugns in the present writ petition two orders firstly, the order dated 06.07.2024 passed by the second respondent under Section 29 of the GST/CGST Act, 2017 referable to the Financial Year 2024-25 cancelling the GST registration and secondly, the appellate order dated 18.09.2025. The show cause notice dated 24.02.2024 reads as under.-

“Form GST REG-17

[See Rule 22(1)/ sub-rule (24) of rule 214)

Reference Number: ZA090224223263W

Date: 24/02/2024

To

Registration Number (GSTIN/Unique ID): 09APDPK6131QIZG

ABDUL KAYYUM

DUKAN NO 30, JILA PARISHAD COMPOUND, STATION ROAD, CIVIL LINES,
Lalitpur, Uttar Pradesh, 284403

Show Cause Notice for Cancellation of Registration

Whereas on the basis of information which has come to my notice, it appears that your

registration is liable to be cancelled for the following reasons:

1 Section 29(2)(b)-person paying tax u/s 10 failed to furnish returns

You are hereby directed to furnish a reply to the notice within seven working days from the date of service of this notice.

You are hereby directed to appear before the undersigned on 05/03/2024 at 15:38

If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex parte on the basis of available records and on merits.

Please note that your registration stands suspended with effect from 24/02/2024

Kindly refer the supportive document attached for case specific details- Not Applicable

Place: Uttar Pradesh

Date: 24/02/2024

(Ashish Sharma)
Assistant Commissioner,
Sector-1, Jhansi,
Uttar Pradesh”

11. The order for cancellation of registration/order in original passed by the second respondent dated 06.07.2024 reads as under.-

“FORM GST REG-19

[See rule 22 (3)]

Reference No.: ZA09072404414IR

Date: 06/07/2024

To

ABDUL KAYYUM

DUKAN NO 30,JILA PARISHAD COMPOUND, STATION ROAD, CIVIL LINES,
Lalitpur, Uttar Pradesh,284403

GSTIN/UIN: 09APDPK6131QIZG

Application Reference Number (ARN): AA0902241883815

Date:-----

Order for Cancellation of Registration

This has reference to show cause notice issued dated 24/02/2024.

Whereas no reply to the show cause notice has been submitted;

and whereas, the undersigned based on record available with this office is of the opinion that your registration is liable to be cancelled for following reason(s):

1. Section 29(2)(b)-person paying tax u/s 10 failed to furnish returns

Remarks:

Section 29(2)(b)-person paying tax u/s 10 failed to furnish returns

The effective date of cancellation of your registration is 24/02/2024.

2. Kindly refer to the supportive document(s) attached for case specific details.-Not Applicable

3. It may be noted that a registered person furnishing return under sub-section (1) of section 39 of the CGST Act, 2017 is required to furnish a final return in FORM GSTR-10 within three months of the date of this order.

4. You are required to furnish all your pending returns.

5. It may be noted that the cancellation of registration shall not affect the liability 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.

Place: Uttar Pradesh

Date: 06/07/2024

(Ashish Sharma)

Assistant Commissioner,

Lalitpur, Sector-1”

12. The appeal came to be preferred by the writ petitioner questioning the order dated 06.07.2024 before the third respondent in which in para 16, reasons of delay have been taken which reads as under.-

“16. If 'Yes' in item 16-

(a) Period of delay Day-316

(b) Reasons for delay यह कि अपीलकर्ता के द्वारा वर्क कॉन्ट्रैक्ट का कार्य किया

जाता है। यह कि अपीलकर्ता का विद्वान न्याय निर्णय अधिकारी के द्वारा वर्ष 2024-2025 का पंजीयन कैंसिलेशन का आदेश दिनांक 06.07.2024 को पारित किया गया था उक्त आदेश की अपील दिनांक 05.10.2024 तक की जानी थी। यह कि अपीलकर्ता के जीएसटी रिटर्न एकाउंटेंट के द्वारा फाईल किये जाते थे उसके द्वारा जीएसटी पोर्टल पर अपना मोबाईल नं० और ई-मेल आईडी अपडेट की गयी है और उसके द्वारा अपीलकर्ता को पंजीयन कैंसिलेशन से सम्बन्धित नोटिस और आदेश की कोई जानकारी नहीं दी गयी थी। यह कि अपीलकर्ता को उक्त पंजीयन कैंसिलेशन के पारित आदेश दिनांक 06.07.2024 की जानकारी दिनांक 20.08.2025 को हुयी वैसे ही अपीलकर्ता के द्वारा अपने अधिवक्ता से सम्पर्क कर अपील तैयार करवाते हुये अपील आपके समक्ष प्रस्तुत की जा रहा है।

अतः माननीय महोदय से निवेदन है कि अपील प्रस्तुत करने में हुये 316 दिनों के विलम्ब को क्षमा करते हुये अपील स्वीकार करने की कृपा करें। आपकी अति कृपा होगी।"

13. The appellate order dated 18.09.2025 passed by the third respondent reads as under.-

"आदेश

सहायक आयुक्त, राज्य कर, खण्ड-1, ललितपुर (जिसे आगे प्रापर आफिसर कहा गया है) द्वारा सर्वश्री न्यू भारत इलेक्ट्रिकल्स, जिला परिषद कंपाउंड, स्टेशन रोड, सिविल लाइंस, ललितपुर, उ०प्र० GSTIN-09APDPK6131Q1ZG (जिसे आगे अपीलार्थी कहा गया है) के विरुद्ध उ०प्र० माल एवं सेवा कर अधिनियम, 2017 (जिसे आगे प्रांतीय अधिनियम कहा गया है) की धारा-29(2) (c) सपठित नियम- 22(3) के अंतर्गत आदेश संख्या-ZA090724044141R दिनांक 06-07-2024 पारित करते हुये अपीलार्थी का पंजीयन निरस्त किया गया था जिससे क्षुब्ध होकर अपीलार्थी द्वारा प्रांतीय अधिनियम की धारा-107(1) के अंतर्गत आदेश संसूचित होने की तिथि से तीन माह के अंदर अर्थात् दिनांक 06-10-2024 तक अपील प्रस्तुत की जा सकती थी परंतु अपीलार्थी द्वारा उक्त आदेश के विरुद्ध अपीलार्थी द्वारा उक्त धारा के अंतर्गत अपील प्रार्थना पत्र (FORM GST APL-01) संख्या- AD090825146726) दिनांक 27-08-2025 प्रस्तुत की गयी है। 2- अपीलार्थी को उक्त विलम्ब की सुनवाई के संबंध में नोटिस दिनांक 15-09-2025 जारी करते हुये सुनवाई की तिथि 18-09-2025 नियत की गयी। नियत तिथि पर फर्म अधिवक्ता श्री मंजीत सिंह अहूजा उपस्थित हुये। अपीलार्थी द्वारा समयान्तर्गत अपील प्रस्तुत न किये जा सकने के कारण अस्वस्थ होना बताया जिस कारण अपीलार्थी समय से अपील दाखिल नहीं नहीं कर सके थे। अधिनियम की धारा-107 (1) एवं धारा-107(4) के प्रावधान निम्नवत है-

Section 107. Appeals to Appellate Authority..

(1) Any person aggrieved by any decision or order passed under this Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act by an adjudicating authority may appeal to such Appellate Authority as may be prescribed within three months from the date on which the said decision or order is

communicated to such person.

(4) The Appellate Authority may, if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within the aforesaid period of three months or six months, as the case may be, allow it to be presented within a further period of one month.

न्याय निर्णयन अधिकारी द्वारा पारित आदेश अपीलार्थी को दिनांक 06-07-2024 को संसूचित हुआ है। अधिनियम के उक्त प्रावधान के अनुसार इस आदेश से क्षुब्ध होने पर अपीलार्थी द्वारा दिनांक 06-10-2024 तक अपील प्रार्थना पत्र प्रस्तुत किया जा सकता था। अधिनियम की धारा-107(4) के प्रावधान के अनुसार यदि अपीलार्थी प्राधिकारी इस बात से संतुष्ट है कि उक्त तीन माह की अवधि में अपील प्रस्तुत न किये जा सकने का पर्याप्त कारण उपलब्ध था तब वह एक माह की अवधि का विलंब क्षमा कर सकता है। प्रश्नगत मामले में दिनांक 06-10-2024 से एक माह पश्चात अर्थात् दिनांक 06-11-2024 तक अपील प्रार्थना पत्र प्रस्तुत हो जाने पर इसे स्वीकार किये सत्य जारहित विलंबे के कारणों पर विचार किया जा सकता था परंतु अपीलार्थी द्वारा अपील प्रार्थना पत्र 323 दिन विलंब से दिनांक 27-08-2025 को प्रस्तुत किया गया है जो अधिनियम की धारा-107(4) में अपीलार्थी प्राधिकारी को प्रदत्त विलंब क्षमा की अवधि के बाहर है। मा० उच्च न्यायालय, इलाहाबाद द्वारा सर्वश्री बालाजी कोल ट्रेडर्स बनाम कमिश्नर, वाणिज्य कर, उ०प्र० (रिट टैक्स संख्या-1614/2022) के वाद निर्णय में अधिनियम की धारा-107(1) एवं धारा-107(4) के प्रावधानों की व्याख्या के आलोक में प्रश्नगत अपील प्रार्थना पत्र कालबाधित होने के कारण ग्राह्य / स्वीकार किये जाने योग्य नहीं है।

अतः अपील प्रार्थना पत्र (FORM GST APL-01) संख्या- AD090825146726) दिनांक 27-08-2025 अस्वीकार किया जाता है।

आदेश की प्रति अपीलार्थी को भेजी जाये एवं FORM GST APL-02 जी०एस०टी० पोर्टल पर अपलोड किया जाये।

दिनांक-18-09-2025"

14. A bare look of the order in original would reveal that the reasons for cancellation of the GST registration is as follows.

“Section 29(2)(b) person paying tax under Section 10 failed to furnish returns”

In the remarks column, the following has been observed.-

Remarks:-

“Section 29(2)(b) person paying tax under Section 10 failed to furnish returns.”

The affected date of cancellation of registration is 24.02.2024.

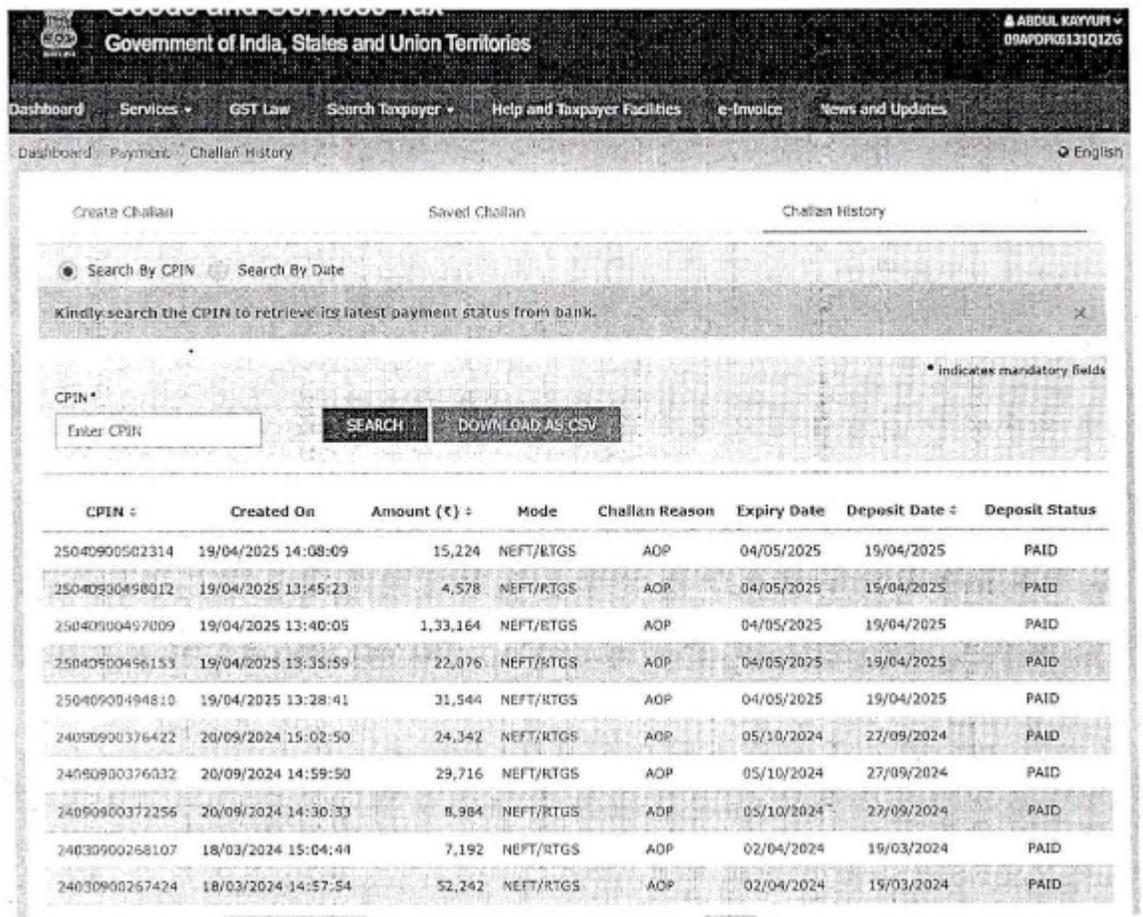
15. The writ petitioner herein disputes the service of the show cause notice dated 24.02.2024 whereby the writ petitioner was required to

appear before the authority in original by 05.03.2024, however, the Court finds interestingly the order impugned came to be passed on 06.07.2024. There is nothing in the order impugned that what was the date the manner and the mode by which the service of the show cause notice came to be served upon the writ petitioner. As a matter of fact in the memo of appeal, the writ petitioner in the grounds of appeal para 2 had made the following statements.-

"2. यह कि अपीलकर्ता के जीएसटी रिटर्न एकाउण्टेंट के द्वारा फाईल किये जाते थे उसके द्वारा जीएसटी पोर्टल पर अपना मोबाईल नं० और ई-मेल आईडी अपडेट की गयी है।

यह कि एकाउण्टेंट के द्वारा जीएसटी के रिटर्न फाईल करने के लिये कर जमा करवा लिया जाता था।

अपीलकर्ता द्वारा जमा किये गये कर के चालान जीएसटी पोर्टल पर उपलब्ध है जिनका विवरण निम्न प्रकार है -



CPIN	Created On	Amount (₹)	Mode	Challan Reason	Expiry Date	Deposit Date	Deposit Status
25040900562314	19/04/2025 14:08:09	15,224	NEFT/RTGS	AOP	04/05/2025	19/04/2025	PAID
25040900498012	19/04/2025 13:45:23	4,578	NEFT/RTGS	AOP	04/05/2025	19/04/2025	PAID
25040900497009	19/04/2025 13:40:05	1,33,164	NEFT/RTGS	AOP	04/05/2025	19/04/2025	PAID
25040900496153	19/04/2025 13:35:59	22,076	NEFT/RTGS	AOP	04/05/2025	19/04/2025	PAID
25040900494810	19/04/2025 13:28:41	31,544	NEFT/RTGS	AOP	04/05/2025	19/04/2025	PAID
24090900376422	20/09/2024 15:02:50	24,342	NEFT/RTGS	AOP	05/10/2024	27/09/2024	PAID
24090900376032	20/09/2024 14:59:50	29,716	NEFT/RTGS	AOP	05/10/2024	27/09/2024	PAID
24090900372256	20/09/2024 14:30:33	8,984	NEFT/RTGS	AOP	05/10/2024	27/09/2024	PAID
24030900268107	18/03/2024 15:04:44	7,192	NEFT/RTGS	AOP	02/04/2024	19/03/2024	PAID
24030900267424	18/03/2024 14:57:54	52,242	NEFT/RTGS	AOP	02/04/2024	19/03/2024	PAID

यह कि उसके द्वारा अपीलकर्ता को पंजीयन कैंसिलेशन से सम्बन्धित जारी नोटिस और पारित आदेश की कोई जानकारी नहीं दी गयी थी।"

16. A bare look of the para 2 of the ground of appeal would reveal that the writ petitioner had demonstrated that the writ petitioner had submitted the returns. As a matter of fact though the order in original came to be passed

on the assumption that the show cause notice came to be served upon the writ petitioner but the writ petitioner disputes the same, thus, in the opinion of the Court something more was required at the end of the authority in original to have recited the mode manner and the date on which the notice came to be served upon the writ petitioner. Even otherwise, in the appeal, in paragraph 16(b) the writ petitioner had taken certain grounds relatable to the delay in filing the appeal that GST returns are being filed through the accountant and in the GST Portal, the mobile number and E mail were uploaded, however, there was no knowledge about the passing of the order in original and as soon as the same came to the knowledge of the writ petitioner/accountant, the appeal came to be preferred without any delay. However, the Appellate Authority in its order has not considered the ground taken by the writ petitioner in that regard for condonation of delay, however, it has proceeded on the assumption that the appellate authority had issued notices on 15.09.2025 fixing 18.09.2025 and the Advocate of the writ petitioner/appellant appeared and the grounds taken was regarding the illness. In the opinion of the Court once a specific ground is taken in the memo of appeal seeking condonation of delay then the instant ground is to be considered this way or that way in that regard, however, there is no consideration of the same. Moreover, the order in original is also not in conformity of law.

17. Accordingly, the writ petition is being decided in the following terms.-

(a) the order dated 06.07.2024 passed by the Assistant Commissioner, Lalitpur, Sector 1, Jhansi, second respondent as well as the order cancelling the GST registration as well as the order dated 18.09.2025 passed by the Additional Commissioner, Grade 2 (Appeal), Jhansi, third respondent are set aside;

(b) matter stands remitted back to the second respondent, Assistant Commissioner, Lalitpur, Sector 1, Jhansi to pass a fresh order within a period of three months. Since the show cause notice dated 24.02.2024 is within the knowledge of the writ petitioner as the same has been annexed as Annexure-3 at page 32 of the paper book reference whereof has been made in paragraph 9 of the writ petition, thus, it would be deemed that the

writ petitioner had full knowledge of the show cause notice, thus, the writ petitioner shall respond to the show cause notice by **03.04.2026**. (c) on doing so, the second respondent, Assistant Commissioner, Lalitpur, Sector-1, Jhansi shall fix a date for hearing and thereafter, post hearing, an order be passed within the time stipulated hereinabove.

18. With the said observations, the writ petition stands disposed of.

(Vikas Budhwar,J.)

March 16, 2026
Rajesh

