

(2025) 12 DEL CK 0011

Delhi HC

Case No: Writ Petition (C) No. 16684 Of 2025 & Civil Miscellaneous Application No. 68463
Of 2025

M/s Modi Packers (Through Its
Sole Proprietor, Sh. Mohit Modi)

APPELLANT

Vs

Superintendent, Ward 63 (Range
- 43) & Ors.

RESPONDENT

Date of Decision: Dec. 15, 2025

Hon'ble Judges: Prathiba M. Singh, J; Shail Jain, J

Bench: Division Bench

Advocate: Nitin Gulati, Reena Gandhi, Anushree Narain, Naman Choula, Yamit Jetley

Final Decision: Disposed Of

Judgement

Prathiba M. Singh, J

1. This hearing has been done through hybrid mode.
2. The Petitioner has filed the present petition challenging the order-in-appeal dated 9th June, 2025 by which the appeal filed by the Petitioner challenging the order-in-original dated 27th May, 2023 has been dismissed on the ground of limitation.
3. The crux of the dispute is that the Petitioner raised a challenge to the order of retrospective cancellation of its GST registration dated 27th May, 2023. The said challenge was dismissed by the appellate authority solely on the ground that the appeal was barred by limitation.
4. The background of the case is that the Petitioner obtained his GST registration certificate, registered with effect from 1st July, 2017, under the name M/s Modi Packers- a sole proprietary concern of Mr. Mohit Modi.
5. A show cause notice was issued to the Petitioner on 5th April, 2023 (**hereinafter, the SCN**) calling upon the Petitioner to show cause as to why their GST

registration ought not to be cancelled on the ground of **fraud and wilful mis-statement or suppression of facts.**

6. The Petitioner filed a reply to the SCN on 12th April, 2023 and gave the proper registered address of the Petitioner concern, which had been earlier changed. The addresses of the Petitioner are:

OLD ADDRESS:

Ground Floor, Plot No. 154/204, Near Raj Vatika, Village Pooth Khurd, Delhi, North West Delhi, Delhi 110034.

NEW ADDRESS:

House No. 75&76, 2nd Floor, Block F Pkt. 1 Sector 11, New Delhi, North West Delhi, Delhi 110085.

7. In the reply dated 12th April, 2023, filed by the Petitioner to the SCN, the Petitioner provided its operational address, however, no physical inspection was conducted at the new address. Thereafter, the impugned cancellation of GST Registration order was passed on 27th May, 2023 without giving any reference or consideration to the averments made in the reply filed by the Petitioner to the SCN.

8. The order of cancellation dated 27th May, 2023, in fact, cancelled the GST Registration of the Petitioner retrospectively, i.e. from 3rd July, 2017.

9. Thus, the Petitioner filed an appeal against the said order of cancellation dated 27th May, 2023, but the same was dismissed on the ground of being barred by limitation.

10. It is the case of Mr. Nitin Gulati, Id. Counsel for the Petitioner, that an amended registration certificate had been issued to the Petitioner, with the new address, on 28th March, 2023 itself. Despite that, a physical inspection appears to have been conducted at the earlier address of the Petitioner and not at the new address, leading to the order of cancellation dated 27th May, 2023. On a query from the Court, Mr. Nitin Gulati, Id. Counsel submits that the Petitioner is still in business and wishes to restore the GST registration number and is also willing to file the returns and any late fees/penalty. He further submits that the show cause notice dated 5th April, 2023 which led to the order of cancellation dated 27th May, 2023, did not contemplate retrospective cancellation of the GST registration. However, despite that, the GST Registration of the Petitioner has been cancelled retrospectively.

11. Ms. Anushree Narain, Id. Counsel for the Respondent, submits that though the retrospective cancellation of GST Registration of the Petitioner was not contemplated in the SCN, however, there appears to be some lapse in the passing of the reasoned order of cancellation dated 27th May, 2023 and the challenge thereto by the Petitioner in the form of an appeal.

12. The Court has considered the matter. The order of cancellation dated 27th May, 2023 is absolutely silent upon the reasons for retrospective cancellation of the GST Registration of the Petitioner. Moreover, the SCN does not contemplate retrospective cancellation at all. In addition to that, the order of cancellation does not deal with any of the contentions of the Petitioner in the reply filed to the SCN.

13. The retrospective cancellation having not been mentioned in the SCN, the same cannot be given effect retrospectively by way of the impugned order for cancellation. This position has been reiterated by this Court in various decisions including in **Subhana Fashion v. Commissioner Delhi Goods and Service Tax (W.P. (C) 12255/2024)**, **M/S Balaji Industries v. The Principal Commissioner CGST Delhi North Commissionerate & Anr. (W.P.(C) 11913/2024)** and **Ridhi Sidhi Enterprises v. Commissioner of Goods & Service Tax (CGST), South Delhi & Anr. (W.P.(C) 8061/2024)**.

14. Under these circumstances, the order of cancellation dated 27th May, 2023 cannot sustain. The impugned cancellation order is accordingly set aside and the GST registration of the Petitioner is restored, in the following terms:

- i. The Petitioner shall be given access to the GST portal within one week.
- ii. By 15th January, 2026, the Petitioner shall file all its up to date returns along with the late fees, penalty, etc., if any.
- iii. If the Department wishes to take any action against the Petitioner in respect of any other violation, the Department is free to do so.
- iv. The latest contact details of the Petitioner are as under:

Email ID: modipackers79@gmail.com

Mobile: 9996449179

15. The said contact details shall also be updated by the Petitioner on the GST portal, so that the Department can conduct a fresh inspection, if so required.

16. The Petition is disposed of in these terms. Pending applications, if any, are also disposed of..