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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 03.09.2024+ **W.P.(C) 11725/2024****SALUJA ELECTRONICS**

.....Petitioner

Through: Mr. Anshuj Dhingra, Ms. Shubhangda
Singh and Ms. Muskan Banga, Advs.

versus

**COMMISSIONER OF CGST AND CENTRAL EXCISE DELHI
EAST COMMISSIONERATE**

.....Respondent

Through: Mr. Gibran Naushad, Sr. SC

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 02.09.2021 (hereafter *the impugned order*), whereby the petitioner's GST registration was cancelled with retrospective effect from 07.07.2017.
2. The reason set out in the impugned order for cancelling the petitioner's GST registration is that the petitioner had neither appeared for a personal hearing nor submitted any documents in its favour. The impugned order also records the tentative conclusion of the proper officer that the petitioner had secured the GST registration by fake documents. The proper officer had, accordingly, cancelled its registration for "the sake of govt. revenue". It is important to note that the impugned order sets out a table which indicates that no tax was determined as due from the petitioner.
3. The impugned order was passed pursuant to a Show Cause Notice



dated 20.08.2021 (hereafter *the impugned SCN*), proposing to cancel the petitioner's GST registration. The only ground set out in the impugned SCN reads as: "*Others*".

4. The petitioner was called upon to furnish a reply to the impugned SCN within a period of seven days from the date of the impugned SCN and also to appear before the concerned proper officer on 24.08.2021 at 12:10 PM. The petitioner's GST registration was suspended with effect from the date of the impugned SCN – 20.08.2021.

5. The petitioner filed an appeal, under Section 107 of the Central Goods and Services Tax Act, 2017 (hereafter *the CGST Act*)/Delhi Goods and Services Tax Act, 2017 (hereafter *the DGST Act*) against the impugned order on 25.01.2023. The petitioner states that the said appeal is pending and no order has been passed as yet.

6. It is apparent from the above that the impugned order is not sustainable.

7. The impugned SCN is not intelligible as it does not specify the reason for cancelling the petitioner's GST registration. It only mentions "others" which presumably, has been selected by the proper officer from a drop down menu.

8. The purpose of issuing a show cause notice is to enable a noticee to respond to the allegations on the basis of which an adverse order is proposed. In the present case, the impugned SCN fails to meet the requisite standards of a show cause notice as it does not provide any clue as to why the petitioner's GST registration was proposed to be cancelled.

9. The allegation that the petitioner had secured its registration by fake documents – which finds mention in the impugned order – was not the



allegation made in the impugned SCN. There is also no material on the basis of which we may find as to how the said conclusion was drawn by the proper officer.

10. Although the petitioner has filed an appeal, the same has been pending for over one and a half years. It also appears that the appeal was time-barred.

11. In view of the undisputed fact that the impugned SCN does not mention any intelligible reason for proposing to cancel the petitioner's GST registration, we consider it apposite to set aside the impugned order as having been passed in violation of the principles of natural justice.

12. The learned counsel for the respondent submitted that although, the impugned SCN may not have mentioned any specific reason proposing to cancel the GST registration, the petitioner's GST portal would have reflected that the petitioner's premises were visited for physical verification and the premises were not found in existence. He submits that, therefore, the petitioner's GST registration is liable to be cancelled from the date of registration.

13. Learned counsel for the petitioner disputes the same. He further states that the petitioner's GST registration was suspended from the date of issuance of the impugned SCN and access to part of the petitioner's GST portal was blocked.

14. We do not consider it necessary to examine this controversy in any further detail since it is admitted that the impugned SCN – which was issued for the purpose of enabling the petitioner to respond to the allegations set out therein – does not state any allegations regarding the petitioner not being found at the given premises. The impugned order also does not mention that



any physical verification of the petitioner's premises was undertaken and was found to be non-existent.

15. The only reason stated in the impugned order for cancelling the petitioner's GST registration is that it appeared that the petitioner obtained the registration by fake documents – a reason which did not find any mention in the impugned SCN.

16. In view of the above, the impugned SCN and the impugned order are set aside. The petitioner's GST registration is directed to be restored forthwith.

17. We clarify that this order will not preclude the respondent from commencing proceedings afresh if the same are necessary or warranted, in accordance with law. The respondent is also not precluded from initiating proceedings for statutory non-compliance, if any or for recovery of any dues.

18. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 03, 2024/cl