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

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Date of Decision : 12.09.2024+ **W.P.(C) 12590/2024****SINGHAL SINGH RAWAT**

.....Petitioner

Through: Mr Ujwal Ghai, Advocate.

versus

**COMMISSIONER OF CENTRAL GOODS AND
SERVICES TAX (CGST), DELHI-WEST**

.....Respondent

Through: Mr Aakarsh Srivastava, SC, Mr
Vaibhav Gupta and Mr Anand
Pandey, Advocates.**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, *inter alia*, impugning the Show Cause Notice dated 17.11.2022 (hereafter *the impugned SCN*) whereby the petitioner was called upon to show cause as to why its Goods and Services Tax (GST) Registration not be cancelled. The petitioner also impugns the order of cancellation dated 25.11.2022 (hereafter *the impugned cancellation order*) whereby the petitioner's GST registration was cancelled with retrospective effect from 11.03.2020.

2. The petitioner was registered under the provisions of the Central



Goods and Services Tax Act, 2017 (hereafter *the CGST Act*) and the Delhi Goods and Services Tax Act, 2017 (hereafter *the DGST Act*) and was assigned the Goods and Services Tax Identification Number (GSTIN): 07BLWPR7053N1ZO.

3. The petitioner filed an application on 02.11.2022 seeking cancellation of his GST registration. The copy of the said application has not been annexed with the present petition. The learned counsel appearing for the petitioner submits that since the petitioner's access to the GST portal has been restricted, he is unable to access the same. The learned counsel for the petitioner states that the petitioner had sought cancellation of his GST registration for the reason that it has closed his business.

4. The proper officer issued the notice dated 04.11.2022 and called upon the petitioner to show cause why his application should not be rejected. A plain reading of the aforesaid notice indicates that the concerned officer called upon the petitioner to submit various documents, which *prima facie*, are relevant for ascertaining the petitioner's liability under the CGST Act/DGST Act. The petitioner was called upon to furnish party-wise purchase details along with E-way bill; input tax credit (ITC) availed in GSTR-3B vis-a-vis GSTR-2A and GSTR-1; utilised details as per GSTR-3B; input stock details as per Section 29(5) of the CGST Act as on the date of immediately preceding date of cancellation.

5. The petitioner did not respond to the notice dated 04.11.2022 and consequently, the petitioner's application for cancellation of his GST registration was rejected by an order dated 16.11.2022.



6. Thereafter, on 17.11.2022, the proper officer issued the impugned SCN. The only reason set out in the impugned SCN for proposing to cancel the petitioner's GST registration reads as: "Non-existent".

7. It is also material to note that the impugned SCN did not propose to cancel the petitioner's GST registration with retrospective effect. However, a letter dated 11.11.2022 sent by the Deputy Commissioner (Anti Evasion), CGST West Commissionerate to the Assistant Commissioner, Janakpuri Division, CGST West was projected on the GST portal. The said letter indicates that during the physical verification conducted at the premises of the petitioner's principal place of business the firm was found non-existent. In terms of the said letter, the proper officer was directed to initiate the cancellation proceedings from the date of the registration.

8. It is also material to note that aforesaid letter did not provide any particulars as to on which date the physical verification was conducted. It also provided no material to the proper officer to conclude that the petitioner never existed at the principal place of business.

9. The impugned order cancelling the petitioner's GST registration does not indicate any reason for cancelling the petitioner's GST registration except referring to the impugned SCN.

10. The petitioner is essentially aggrieved by the cancellation of GST registration with retrospective effect. We accept the petitioner's contention that it has not been afforded the sufficient opportunity to respond to any proposed action for cancellation of his GST registration with retrospective effect.



11. In view of the above, we consider it apposite to set aside the impugned order cancelling the petitioner's GST registration with retrospective effect and permit the petitioner to file a response to the impugned SCN assuming that the same proposed to cancel the petitioner's GST registration with retrospective effect. The petitioner is at liberty to provide all documents and materials as are considered relevant to establish that the petitioner was existing at the declared principal place of business till closure of the business in the month of November 2022. The petitioner may file the response to the impugned SCN within three weeks from date. The proper officer shall consider the same and pass the appropriate order after affording opportunity to the petitioner of personal hearing as expeditiously as possible, preferably within the period of two months after the personal hearing.

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

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 12, 2024

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Click here to check corrigendum, if any