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

% Date of decision: 29.02.2024

\+ **W.P.(C) 2419/2024**

M/S DREAM EVENTS THROUGH ITS PROPRIETOR MOHAN ...... Petitioner

versus

ASSISTANT COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX, ROHINI DIVISION, WEST DELHI ..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Pranay Jain, Advocate.

For the Respondents: Mr. Aakarsh Srivastava, Standing Counsel with Mr. Vaibhav Gupta & Mr. Shubham Goel, Advocates.

CORAM:-
HON'BLE MR. JUSTICE SANJEEV SACHDEVA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Learned counsel for the respondent submits that a reply has been filed in the registry. However, the same is not on record. Copy of the reply has been produced in Court and same is taken on record.

2. Petitioner impugns order dated 27.05.2023 whereby the GST registration of the petitioner was cancelled retrospectively with effect

from 27.05.2022. Said cancellation order was issued pursuant to a Show Cause Notice dated 25.04.2023.

3. Petitioner is the proprietor of M/s Dream Events and is engaged in the business of events, conventions, exhibitions and possessed GST registration.

4. Vide Show Cause Notice dated 25.04.2023, petitioner was called upon to show cause as to why the registration be not cancelled on the ground *"Non compliance of any specified provisions in the GST Act or the Rules made thereunder as may be prescribed"*. It may be noticed that the said Show Cause Notice required the petitioner to appear before the "undersigned" i.e., authority issuing the notice on 02.05.2023 at 03.00 p.m. However, the notice does not even mention the name of the officer or designation of the authority that has issued the notice and as such is completely vague. Further, the digital signature in the Show Cause Notice merely mentions "*digitally signed by DS GOODS AND SERVICES TAX NETWORK 07*"

5. The Show Cause Notice also does not put the petitioner to notice that the registration is liable to be cancelled retrospectively. Thus, the petitioner had no opportunity to even object to the retrospective cancellation of the registration.

6. Thereafter, the impugned order dated 27.05.2023 passed on the said Show Cause Notice also does not give reasons of cancellation. It merely states *"reference to show cause notice issued dated 25/04/2023"* and subsequently states *"effective date of cancellation of*

your registration is 27.05.2022". The order states that effective date of cancellation of registration is 27.05.2022 i.e., a retrospective date. There is no material on record to show as to why the registration is sought to be cancelled retrospectively.

7. Learned counsel for petitioner submits that the petitioner has changed his registered address, however, in view of the cancellation of the GST registration, the petitioner is not able to upload the same. He submits that the present address of the petitioner is as under:-

> *"Unit No. 134, first floor, Road No. 43, Vardhman Fashion Mall, Pitampura, Delhi-110034."*

8. Learned Counsel for Respondent submits that petitioner was not found functioning at the registered address and was in violation of 86 (B) of CGST Rules 2017. This is disputed by the Learned Counsel for Petitioner.

9. We note that neither the Show Cause Notice nor the impugned order refers to the petitioner not being found at the registered address. The only reason given in the Show Cause Notice is *"Non compliance of any specified provisions in the GST Act or the Rules made thereunder as may be prescribed"* and the order is completely bereft of any reasoning. Accordingly, the same cannot be sustained. Further, neither the Show Cause Notice, nor the order spell out the reasons for retrospective cancellation.

10. In terms of Section 29(2) of the Central Goods and Services Tax Act, 2017, the proper officer may cancel the GST registration of a

person from such date including any retrospective date, as he may deem fit if the circumstances set out in the said sub-section are satisfied. The registration cannot be cancelled with retrospective effect mechanically. It can be cancelled only if the proper officer deems it fit to do so. Such satisfaction cannot be subjective but must be based on some objective criteria. Merely, because a taxpayer has not filed the returns for some period does not mean that the taxpayer's registration is required to be cancelled with retrospective date also covering the period when the returns were filed and the taxpayer was compliant.

11. It is important to note that, according to the respondent, one of the consequences for cancelling a tax payer's registration with retrospective effect is that the taxpayer's customers are denied the input tax credit availed in respect of the supplies made by the tax payer during such period. Although, we do not consider it apposite to examine this aspect but assuming that the respondent's contention in this regard is correct, it would follow that the proper officer is also required to consider this aspect while passing any order for cancellation of GST registration with retrospective effect. Thus, a taxpayer's registration can be cancelled with retrospective effect only where such consequences are intended and are warranted.

12. In view of the aforesaid, order dated 27.05.2023 cannot be sustained and is accordingly set aside. The GST registration of the petitioner is restored. The petitioner shall, however, make all necessary compliances and file the requisite returns and information

inter alia in terms of Rule 23 of the Central Goods and Services Tax Rules, 2017.

13. Further, in case petitioner is not functioning at the registered address or he is not available at the change address as alleged it would be opened to the respondents to take appropriate action against the petitioner after giving a proper Show Cause Notice with reasons and an opportunity of hearing. Respondents are also not precluded from taking any steps for recovery of any tax, penalty or interest that may be due from the petitioner in accordance with law including retrospective cancellation of the GST registration.

14. The petition is accordingly disposed of in the above terms.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

FEBRUARY 29, 2024
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