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

% Date of decision: 13.03.2024

\+ **W.P.(C) 3118/2024**

M/S 3 SHADES EVENTS THROUGH ITS PROPRIETOR ..... Petitioner

versus

PRINCIPAL COMMISSIONER OF DEPARTMENT OF TRADE AND TAXES, GOVERNMENT OF NCT OF DELHI ..... Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Pranay Jain and Mr. Karan Singh, Advocates.

For the Respondent: Mr. Rajeev Aggarwal, ASC with Ms. Samridhi Vats, Advocate.

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

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 03.07.2023, whereby the GST registration of the petitioner has been cancelled retrospectively with effect from 11.05.2022. Petitioner also impugns Show Cause Notice dated 14.06.2023.

2. Vide Show Cause Notice dated 14.06.2023, petitioner was called upon to show cause as to why the registration be not cancelled for the

following reason:-

> *"Rule 21(b)- person issues invoice or bill without supply of goods or services or both in violation of the provisions of the Act, or the rules made thereunder."*

3. Petitioner is engaged in the business of event, exhibitions, conventions and possessed GST registration.

4. Petitioner had submitted an application seeking cancellation of GST registration dated 07.06.2023 on the ground of closure of business.

5. Pursuant to the said application, notice was given to the Petitioner on 31.05.2023 seeking additional information and documents relating to application for cancellation of registration. On account of unsatisfactory reply, order dated 14.06.2023 was passed rejecting the application for cancellation.

6. Thereafter, Show Cause Notice dated 14.06.2023 was issued to the petitioner. Though the notice does not specify any cogent reason, it merely states "*Rule 21(b)- person issues invoice or bill without supply of goods or services or both in violation of the provisions of the Act, or the rules made thereunder*". Further, the said 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.

7. Thereafter, impugned order dated 03.07.2023 passed on the Show Cause Notice also does not give any tenable reasons of cancellation. It, however, states that the registration is liable to be cancelled for the following reason *"Whereas no reply to the show cause notice has been submitted and on day fixed for personal hearing, you did not appear in person or through an authorized representative; 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): Rule 21(a)-person does not conduct any business from declared place of business"*. The order further states that effective date of cancellation of registration is 11.05.2022 i.e., a retrospective date.

8. Pursuant to the said impugned order, Petitioner filed an application dated 19.07.2023 seeking revocation of cancellation of registration. On the said application Petitioner was issued a Show Cause Notice for rejection of application for revocation of cancellation of registration dated 03.08.2023, whereby it was merely stated "*Reason for revocation of cancellation - Reason for revocation of cancellation - The reason entered for revocation of cancellation is not appropriate..*" Thereafter, vide order dated 21.08.2023 the application for revocation of GST cancellation was rejected.

9. Learned counsel for the Petitioner submits that the Petitioner is no longer continuing business and the business activities of the Petitioner have been closed down w.e.f 16.05.2023.

10. We notice that the Show Cause Notice and the impugned order are also bereft of any details accordingly the same cannot be sustained and neither the Show Cause Notice, nor the order spell out the reasons for

retrospective cancellation.

11. In terms of Section 29(2) of the Act, 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. 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.

12. It is important to note that, according to the respondent, one of the consequences for cancelling a taxpayer'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 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.

13. It may be further noted that both the Petitioner and the department want cancellation of the GST registration of the Petitioner, though for different reasons.

14. In view of the fact that Petitioner does not seek to carry on business or continue the registration, the impugned order dated 03.07.2023 is modified to the limited extent that registration shall now be treated as cancelled with effect from 16.05.2023 i.e., the date when the Petitioner closed down his business activities. Petitioner shall make the necessary compliances as required by Section 29 of the Central Goods and Services Tax Act, 2017.

15. It is clarified that Respondents are also not precluded from taking any steps for recovery of any tax, penalty or interest that may be due in respect of the subject firm in accordance with law including retrospective cancellation of the GST registration.

16. Petition is accordingly disposed of in the above terms.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

MARCH 13, 2024/*vp*