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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 12.03.2024

+ W.P.(C) 3617/2024 & CM APPL. 14947-48/2024

SINGLA ENTERPRISES THROUGH ITS
PROPRIETOR MR SHIV KUMAR SINGHAL

..... Petitioner

versus

COMMISSIONER OF DELHI GOODS AND
SERVICE TAX AND ANR

..... Respondents

Advocates who appeared in this case:

For the Petitioner:

Mr. Rakesh Kumar, Mr. P.K. Gambhir and Mr. Akul
Mangla, Advocates.

For the Respondents:

Mr. Rajiv Aggarwal, Addl. Standing Counsel and Ms.
Samridhi Vats, Advocate for R-1 & R-2
Mr. Anurag Ojha, Senior Standing Counsel with Mr.
Subham Kumar and Mr. Vipul Kumar, Advocates
..**CORAM:-****HON'BLE MR. JUSTICE SANJEEV SACHDEVA****HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT****SANJEEV SACHDEVA, J. (ORAL)**

1. Petitioner impugns order dated 27.02.2021, whereby the GST registration of the petitioner has been cancelled retrospectively with effect from 01.07.2017. Petitioner also impugns Show Cause Notice dated 18.02.2021.



2. Vide Show Cause Notice dated 18.02.2021, petitioner was called upon to show cause as to why the registration be not cancelled for the following reason:-

“Issues any invoice or bill without supply of goods and/or services in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilization of input tax credit or refund of tax.”

3. Petitioner is a proprietorship firm and is engaged in trading and retailing of paper board and woven fabric products and possessed GST registration.

4. Show Cause Notice dated 18.02.2021 was issued to the petitioner. Though the notice does not specify any cogent reason, it merely states *“Issues any invoice or bill without supply of goods and/or services in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilization of input tax credit or refund of tax”*. 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.

5. Thereafter, the impugned order dated 27.02.2021 passed on the Show Cause Notice does not give reasons of cancellation. It, however, states that the registration is liable to be cancelled for the following



reason “*DEALER HAS MISMATCH IN THE YEAR 2018-19*”. The order further states that effective date of cancellation of registration is 01.07.2017 i.e., a retrospective date.

6. In our view, the order dated 27.02.2021 does not qualify as an order of cancellation of registration. On one hand, it states that the registration is liable to be cancelled and on the other, in the column at the bottom there are no dues stated to be due against the petitioner and the table shows nil demand.

7. Pursuant to the said impugned order, Petitioner filed an application dated 08.03.2021 seeking revocation of cancellation of registration. On the said application Petitioner was issued a Show Cause Notice for rejection on application for revocation of cancellation of registration dated 16.08.2022, whereby it was merely stated “*Reason for revocation of cancellation - Others (Please specify) - This GSTIN is neither Aadhaar Authenticated nor e-KYC verified. PLEASE UPDATE ALL KYC NORMS.*”

8. As per the petitioner, he filed a detailed reply dated 25.02.2021 to the impugned Show Cause Notice dated 18.02.2021, however, the same was not considered by the Proper Officer while passing the impugned order dated 27.02.2021.



9. As per the petitioner, the revocation application dated 08.03.2021 is still pending, however, Petitioner is now no longer interested in continuing the business and has closed down his business activities.

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 is 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 27.02.2021 is modified to the limited extent that registration shall now be treated as cancelled with effect from 18.02.2021 i.e., the date when the Show Cause Notice was issued. 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

MARCH 12, 2024/'rs'

RAVINDER DUDEJA, J