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

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Date of decision: 13.03.2024

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W.P.(C) 3632/2024 & CM APPLs. 15002-03/2024

GOYAL METAL INDUSTRIES, PROPRIETOR VIKRAM SINGH
JAI PRAKASH GUPTA Petitioner

versus

PRINCIPAL COMMISSIONER OF GST, DEPARTMENT OF
TRADE AND TAXES,
NEW DELHI Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. V.S. Negi with Ms. Sangeeta Rana,
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 seeks quashing of order dated 28.07.2018 whereby the GST registration has been cancelled retrospectively from 01.07.2017. Petitioner also impugns order dated 11.12.2023, whereby, the impugned Show Cause Notice dated 27.07.2023, proposing a demand against the Petitioner has been disposed and a demand of Rs. 18,51,918.60/- including penalty has been raised against the Petitioner.



The order has been passed under Section 73 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the “Act”),

2. Learned counsel for the petitioner submits that petitioner could not respond to the Show Cause Notice dated 27.09.2023 as the petitioner could not access the GST portal. She submits that on a query raised under the Right to Information Act, petitioner was informed that the GST registration of the petitioner has been cancelled retrospectively with effect from 01.07.2017.

3. Learned counsel for the petitioner submits that petitioner had applied for cancellation of GST registration with effect from 01.01.2018 as petitioner had done business only till 31.12.2017 and has filed returns till that period.

4. Learned counsel for respondents submits that the record of the petitioner is not available on the GST portal. He submits that portal is reflecting that the registration has been cancelled retrospectively with effect from 01.07.2017, however, orders are not accessible even to the proper officer.

5. He submits that without prejudice to the right of the department to take action in case any infraction is found on the part of the petitioner, he has no objection in case GST registration of the petitioner is cancelled with effect from 01.01.2018.

6. We note that the impugned order dated 11.12.2023 has been passed merely on the ground that no reply has been received from the



taxpayer.

7. It is not in dispute that once the registration is cancelled retrospectively, the taxpayer is not in a position to access the portal; become aware of any notice or respond thereto.

8. In the instant case, since the GST portal shows that the registration of the petitioner has been cancelled retrospectively with effect from 01.07.2017, petitioner would not have been able to receive the show cause notice or access the portal to become aware of any show cause notice or respond thereto.

9. In view of the above, we are of the view that impugned order dated 11.12.2023 is not sustainable. The same is accordingly set aside.

10. Since both the petitioner as well as respondent want the registration to be cancelled, though for different reasons, we are of the view that interest of justice requires that the registration of the petitioner be deemed to be cancelled with effect from 01.01.2018 i.e., the date of the application filed by the Petitioner seeking cancellation of the GST registration.

11. Further, Respondent shall serve a copy of the Show Cause Notice under Section 73 of the Act to the petitioner within a period of one week from today. Petitioner shall thereafter respond to the show cause notice within a period of two weeks. The Proper Officer shall adjudicate the show cause notice and pass a speaking order after giving an opportunity of personal hearing to the petitioner.



12. It is clarified that this Court has neither considered nor commented upon the merits of the contentions of either party. All rights and contentions of parties are reserved.

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

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

MARCH 13, 2024/vp