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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 20.03.2024

+ W.P.(C) 3931/2024 & CM APPL. 16203/2024

GOOD LIFE ZIP INDIA

..... Petitioner

versus

COMMISSIONER OF DELHI GOODS AND
SERVICE TAX & ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Rajesh Mahiya, Mr. Ramanand Roy and Mr.
Mithlesh Tiwari, Advocates

For the Respondents: Mr. Rajeev Aggarwal, ASC

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns order dated 25.08.2023, whereby the GST registration of the petitioner has been cancelled retrospectively with effect from 15.11.2018. Petitioner also impugns Show Cause Notice dated 08.11.2022.

2. Vide Show Cause Notice dated 08.11.2022, petitioner was



called upon to show cause as to why the registration be not cancelled for the following reason: -

“returns furnished by you under section 39 of the Central Goods and Services Tax Act, 2017.”

3. Petitioner was engaged in the business of trading of Garments and ZIP and possessed GST registration.

4. The Show Cause Notice dated 08.11.2022 was issued to the Petitioner seeking to cancel its registration. Though the notice does not specify any cogent reason, it merely states an observation *“failure to furnish returns for a continuous period of six months”*. Said Show Cause Notice required the petitioner to appear on 08.12.2022 at 11:00 AM before the undersigned i.e. authority issuing the notice. However, the said Notice does not give the name of the officer or place where the petitioner has to appear. It merely mentions *“Jurisdiction Officer”* and the digital signatures in the Show Cause Notice merely mentions *“digitally signed by DS GOODS AND SERVICES TAX NETWORK (4).”*

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

6. Further, the impugned order dated 25.08.2023 passed on the Show Cause Notice does not give any reasons for cancellation. It



states that the registration is liable to be cancelled for the following reason “*Whereas no reply to the show cause has been submitted 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): Section 29(2)(c)- Person, other than paying tax u/s 10, failed to furnish returns for prescribed periods*”. The order further states that effective date of cancellation of registration is 15.11.2018 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 the Petitioner submits that Petitioner regularly filed his returns, however since June 2022, he could not file his returns due to major setback in the business due the lockdown period. He further submits that the business of the Petitioner had completely stopped and no income was generated.

8. He further submits that due to closure of his business, he did not open the GSTIN portal and receive the Show Cause Notice. The same was not received by him either by email or by post. Therefore, due to lack of access of the notice, the Petitioner could not file a response to the Show Cause Notice dated 08.11.2022.

9. We notice that the Show Cause Notice and the impugned order are 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.

10. 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.

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 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.



12. It is clear that both the petitioner and the respondent want the GST registration to be cancelled, though for different reasons.

13. In view of the fact that the Petitioner does not seek to carry on business or continue the registration, the impugned order dated 25.08.2023 is modified to the limited extent that registration shall now be treated as cancelled with effect from 08.11.2022 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.

14. It is clarified that Respondents are 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.

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

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

MARCH 20, 2024/'rs'