2024:DHC:3346-DB

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 16.04.2024

\+ **W.P.(C) 5378/2024& CM APPL. 22166/2024**

M/S ASIAN TRADERS ..... Petitioner

versus

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

Advocates who appeared in this case:

For the Petitioner: Mr. Pranay Jain, Advocate

For the Respondents: 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 a direction to the respondent to allow the application of the petitioner seeking cancellation of the GST registration with effect from 30.05.2023.

2. Issue notice. Notice is accepted by learned counsel appearing for the respondent. With the consent of the parties, the petition is taken up for hearing today.

3. Petitioner is engaged in the business of trading of polymers and ethylene and possesses a GST registration under the Central Goods and Service Tax Act, 2017.

4. Petitioner applied for cancellation of the GST registration on 30.05.2023on the ground of closure of business. However, the said application was rejected by an order dated 07.12.2023.

5. Thereafter, Petitioner once again applied for cancellation of the GST registration on 14.12.2023 on the ground of closure of business. Said application has been rejected by an order dated 18.03.2024.

6. Though the said order does not give any specific reasons for rejection, it merely states "*the reply has been examined and the same has not been found to be satisfactory for the following reasons*". The entire order is thereafter blank and merely states that the application is rejected in accordance with the provisions of the Act. Said order does not give any particulars or details.

7. Learned counsel for Petitioner submits that Petitioner is no longer interested in continuing business and has closed down his business activities since 30.05.2023. He submits that the Petitioner has applied for cancellation of GST registration twice, both of which have been rejected. He submits that the order for rejection of application is a blank document and states that the application has been rejected in accordance with the provisions of the Act.

8. He further submits that the Petitioner has again applied for cancellation of GST registration on 26.02.2024 on the ground of closure of business, however, the application has not yet been disposed of.

9. There is no cogent reason on behalf of the Respondents as to why the applications seeking cancellation of the GST registration are being denied. If a trader seeks to shut the business and surrender its GST registration, there is no ground under which the department can refuse such an application except in cases where the interest of the revenue is at stake.

10. In the instant case, no such ground has been taken by the department. Furthermore, mere cancelation of the registration does not preclude the department from taking any action in accordance with law for recovery of any tax, penalty or fine that may be due and even from retrospectively cancelling the registration is circumstances so warrant.

11. It may be noticed, that on an application being filed for cancellation of the registration, the registration is automatically suspended and no business can thereafter be carried out under the said registration.

12. In view of the fact that the Petitioner does not seek to carry on business or continue with the registration, the registration of Petitioner

shall now be treated as cancelled with effect from 30.05.2023 i.e., the date when Petitioner first filed an application seeking cancellation of GST registration.

13. 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 after giving a proper show cause notice and an opportunity of hearing.

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

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

APRIL16, 2024/'*rs*'