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

\+ W.P.(C) 8861/2024 & CM APPL. 36025/2024

M/S A S GARMENTS

..... Petitioner

Through Mr.Pulkit Verma and Mr.Upender Sam, Advocates.

versus

COMMISSIONER, DELHI GOODS AND SERVICE TAX

..... Respondent

Through Mr.Rajesh Aggarwal, ASC.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE SACHIN DATTA

O R D E R

% **02.07.2024**

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

> "a) A Writ of Certiorari under Article 226/227 of the Constitution of India quashing/set aside the impugned order dated 07.10.2021 passed by the Respondent to the extent of cancellation of registration *ab initio* and in furtherance thereof cancelling the GST registration w.e.f., 02.09.2021 i.e., the date of issuance of show cause notice; or/and
> b) Without prejudice, a Writ of Mandamus under Article 226/227 of the Constitution of India directing the Respondent to cancel the GST registration w.e.f., 01.12.2020 i.e., the date Petitioner ceased to carry on business and failed to file GST returns."

2. The petitioner is an individual and was, *inter alia*, engaged in carrying on the business of trading in garments and other ancillary products, under the name of his sole proprietorship concern, M/s A S Garments. The petitioner was registered under the Central Goods and Services Tax Act,

2017 (hereafter *the CGST Act*) on 01.07.2017 and was assigned the Goods and Services Tax Identification Number (GSTIN) 07ANUPA4701D1ZC.

3. The petitioner claims that he has complied with the provisions of the Delhi Goods and Services Tax Act, 2017 and the CGST Act and had filed the GST returns till the month of November, 2020. However, he closed down its business thereafter and did not file the GST returns after November 2020.

4. The concerned officer of the respondent issued the Show Cause Notice dated 02.09.2021 (hereafter *the SCN*) suspending the registration with effect from said date and calling upon the petitioner to show cause why his registration should not be cancelled for not filing the returns for a continuous period of six months. Admittedly, the petitioner did not respond to the SCN. Resultantly, the concerned officer of the respondent passed the impugned order dated 07.10.2021 (hereafter *the impugned order*) cancelling the GST registration of the petitioner with effect from the date it was granted – 01.07.2017.

5. The petitioner is not aggrieved by the cancellation of his GST registration as he claims that he has stopped carrying on his business. His grievance is that the GST registration has been cancelled retrospectively.

6. Mr. Aggarawal, learned counsel appearing on behalf of the respondent submits that since no specific reason has been given for cancellation of the GST registration with retrospective effect, the cancellation of the petitioner's GST registration be made operative from the date of the SCN, that is, with effect from 02.09.2021.

7. The said submission commends to this Court. The learned counsel appearing on behalf of the petitioner also does not oppose the same.

8. In view of the above, the petition is disposed of by directing that the impugned order cancelling the GST registration of the petitioner shall take effect from 02.09.2021 and not from a date prior to the said date. The impugned order stands modified to this extent.

9. It is clarified that this order shall not preclude the respondent from initiating any other action or proceedings, if warranted, in accordance with law. All rights and contentions of the parties are reserved.

10. This order is passed with the consent of the learned counsel for the parties. Pending application stands disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 02, 2024

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Click here to check corrigendum, if any