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

\+ W.P.(C) 9264/2024 and CM APPL.44635/2024

M/S ULTRA INDUSTRIES .....Petitioner

Through: Mr. Joydeep Sharma and Mr. Kaushal Kapoor, Advs.

versus

COMMISSIONER OF CENTRAL TAX APPEAL FIRST DELHI .....Respondent

Through: Mr. Shubham Tyagi, Sr. SC, CBIC and Ms. Saumya Singh, Adv.

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

ORDER

% **29.08.2024**

1. The petitioner has filed the present petition being aggrieved by the order dated 06.06.2022 (hereafter *the impugned order*) cancelling the petitioner's Goods and Services Tax (GST) registration with retrospective effect from 23.08.2017.

2. The petitioner is a partnership firm, which was constituted on 08.07.2017. The petitioner is engaged in the business of manufacturing of edge binding tape and was duly registered under the Central Goods and Services Tax Act, 2017 (CGST Act)/Delhi Goods and Services Tax Act, 2017 (DGST Act) with effect from 23.08.2017 and was assigned the Goods and Services Tax Identification Number (GSTIN): 07AAFFU1507M1Z2.

3. The petitioner claims that due to adverse circumstances resulting on account of the outbreak of COVID-19, the petitioner could not sustain its operation and had to close down its business in April, 2022. The petitioner

claims that he had duly paid its taxes for the period prior to the said date.

4. On 12.05.2022, the Show Cause Notice (hereafter 'the *SCN*') was issued by the proper officer calling upon the petitioner to show cause why its registration not be cancelled. The only reason set out in the SCN reads as under:

> "Non compliance of any specified provisions in the GST Act or the Rules made thereunder as may be prescribed."

5. The petitioner was called upon to respond to the SCN within a period of seven working days from the date of service of the SCN and was also required to appear before the proper officer on 19.05.2022 at 03.00 PM for a personal hearing. Additionally, the petitioner's GST registration was suspended with effect from the date of SCN, that is, with effect from 12.05.2022.

6. Thereafter, by the impugned order, the petitioner's GST registration was cancelled with retrospective effect from 23.08.2017. The impugned order does not indicate any specific reason for cancelling the petitioner's GST registration with retrospective effect. The only reason set out in the said order is as under:

> 'The taxpayer neither attended personal hearing nor responded to the query raised. The taxpayer has not updated /uploaded/submitted the necessary documents.'

7. The petitioner applied for revocation of the impugned order. Pursuant thereto, the proper officer issued the Show Cause Notice dated 17.06.2022 calling upon the petitioner to furnish a reply within seven working days from the date of the said notice. However, the petitioner failed to file its reply within the stipulated period. Therefore, the petitioner's application was

rejected by the order dated 21.07.2022.

8. The petitioner appealed the order dated 21.07.2022 rejecting the petitioner's application for revocation of the impugned order. However, the petitioner's appeal was rejected by the order dated 30.11.2023 as being time barred. In the aforesaid circumstances, the petitioner has approached this Court.

9. The petitioner is not aggrieved by the decision of the proper officer to cancel its GST registration. This is for of the reason that the petitioner had closed down its business with effect from April, 2022 onwards. The petitioner is essentially aggrieved by cancellation of its GST registration with retrospective effect, which also covers the period during which the petitioner claims that it was in existence. It claims that during this period it had duly filed its returns and paid the requisite taxes.

10. As noted above, the SCN does not set out any specific ground for cancellation of the petitioner's GST registration. It merely sets out the statutory provision under which the petitioner's GST registration was proposed to be cancelled. It is also material to note that the SCN did not include any proposal for cancelling the petitioner's GST registration with retrospective effect. Thus, the impugned order passed pursuant to the SCN is liable to be set aside.

11. Section 29(2) of the CGST Act/DGST Act empowers a proper officer to cancel the taxpayer's registration including from retrospective effect for the reasons set out in Section 29(2) of the CGST Act/DGST Act. However, the said decision cannot be arbitrary or whimsical. It is necessary that the decision to cancel the taxpayer's GST registration with retrospective effect must be informed by reason.

12. In the present case, no reasons are set out in the impugned order, which would support cancellation of the petitioner's GST registration with retrospective effect.

13. In view of the above, we consider it apposite to modify the impugned order to a limited extent that it would be operative from the date of the SCN (that is with effect from 12.05.2022) and not with retrospective effect from 23.08.2017.

14. We also consider it apposite to clarify that if the proper officer has any grounds for cancelling the petitioner's GST registration with retrospective effect, he would not be precluded from initiating fresh proceedings for the same.

15. The respondent authorities are also not precluded from initiating any proceedings for statutory non-compliance or for recovery of dues, if any.

16. The present petition is disposed of in the aforesaid terms.

17. Pending application also stands disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

AUGUST 29, 2024/cl