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

\+ W.P.(C) 9315/2024

AMBA ENTERPRISES .....Petitioner

Through: Mr Gagan Kumar Singhal and Mr Suresh Chaudhary, Advocates.

versus

UNION OF INDIA & ORS. .....Respondents

Through: Mr Jatin Singh, Advocate for UOI/R-1.

Mr Aakarsh Srivastava, Standing Counsel for R-2 & 3.

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

O R D E R

% **10.07.2024**

CM APPL. 38142/2024 (*Exemption*)

1. Exemption is allowed, subject to all just exceptions.

2. The application stands disposed of.

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3. Issue notice.

4. The learned counsel for the respondents accept notice.

5. The petitioner has filed the present petition, *inter alia*, impugning a Show Cause Notice dated 26.11.2022 (hereafter *the impugned SCN*) calling upon the petitioner to show cause why its Goods and Services Tax (GST) Registration not be cancelled. The petitioner also impugns the cancellation order dated 30.05.2024 (hereafter *the impugned cancellation order*), whereby the petitioner's GST Registration was cancelled pursuant to the

impugned SCN.

6. The only reason set out in the impugned SCN for proposing to cancel the petitioner's GST Registration reads as: "*In case, Registration has been obtained by means of fraud, wilful misstatement or suppression of facts.*"

7. The petitioner was called upon to file a reply to the impugned SCN within a period of seven working days from the date of service of the impugned SCN. He was also directed to appear before the concerned Officer on 28.11.2022 at 02:00 PM.

8. The petitioner's GST Registration was suspended from the date of the impugned SCN, that is, with effect from 26.11.2022. Thereafter, the impugned cancellation order was passed cancelling the petitioner's GST with effect from 28.07.2017.

9. The impugned cancellation order does not specify any reason for proposing to cancel the petitioner's GST Registration. It merely states that the said order was passed with reference to the impugned SCN.

10. A plain reading of the impugned SCN indicates that it does not set out any specific reason for proposing to cancel the petitioner's GST Registration. It merely alleges that the GST Registration was obtained by fraud, wilful misstatement or suppression of facts. However, it fails to indicate the nature of the fraud alleged or the statement made by the petitioner, which is alleged to be a wilful misstatement. The impugned SCN also does not indicate the facts, which are alleged to be suppressed.

11. It is clear that the impugned SCN fails to meet the standards required for a show cause notice. A show cause notice is issued to enable a noticee to meet the allegations on the basis of which an adverse order or action is proposed. Since the impugned SCN does not specify any reason for

proposing to cancel the petitioner's GST Registration, it is incapable of eliciting a meaningful response. It is apparent that the impugned SCN has been issued mechanically by selecting reasons from a pre-determined set of reasons without specifying the same.

12. It is also relevant to note that the impugned SCN does not indicate that the petitioner's GST Registration was proposed to be cancelled with retrospective effect. Thus, the petitioner had no opportunity whatsoever to contest the said action.

13. In view of the above, the present petition is allowed and the impugned order as well as the impugned SCN is set aside. The respondents are also directed to forthwith restore the petitioner's GST Registration.

14. We, however, clarify that this would not preclude the respondents from initiating any fresh steps for cancellation of the petitioner's GST registration, if the same is warranted, in accordance with law.

15. The petition is disposed of in the above terms.

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 10, 2024
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