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

% *Date of Decision: 11.07.2024*

\+ **W.P.(C) 9382/2024 & CM No.38527/2024**

M/S. CHANDRA GUPTA AND ASSOCIATES .....Petitioner

Through: Mr. Sumit K. Batra, Mr. Manish Khurana, Ms. Priyanka Jindal & Mr. Nikhin Alex, Advs.

Versus

COMMISSIONER OF CENTRAL TAX (APPEALS-II) & ANR. .....Respondents

Through: Mr. Akshay Amritanshu & Mr. Samyak Jain, Advs.

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

VIBHU BAKHRU, J. (***Oral***)

1. The petitioner has filed the present petition impugning an Order-in-Appeal dated 08.05.2024 (hereafter *the impugned order*) whereby the petitioner's appeal against the order dated 04.11.2023, whereby the petitioner's petition for revoking the order cancelling its GST Registration, was rejected on the ground of delay.

2. The petitioner had preferred the aforesaid appeal against an order dated 11.07.2023 (hereafter *the cancellation order*) whereby the petitioner's GST registration was cancelled pursuant to the Show Cause Notice dated 08.05.2023 (hereafter *SCN*).

3. The cancellation order, apart from referring to the SCN, does not

mention any reason for cancelling the petitioner's GST registration. The petitioner had applied for revocation of the cancellation order, however, the same was rejected by an order dated 04.11.2023.

4. The petitioner assailed the said order dated 04.11.2023 in an appeal filed on 09.02.2024 under Section 107 of the CGST Act.

5. Concededly, the petitioner's appeal was delayed by six days; that is, it was six days beyond the stipulated period of three months provided under Section 107(1) of the CGST Act. Moreover, the petitioner provided the explanation for such delay. He submitted that the concerned GST officer has raised a ticket for rectification of the order dated 04.11.2023 under Section 161 of the CGST Act and the same was also communicated to the petitioner. The petitioner was thus hopeful that its grievance could be resolved by a rectification order.

6. A plain reading of the impugned order indicates that the said explanation was not considered. It is relevant to note that in terms of Section 107(4) of the CGST Act, the Appellate Authority has the power to condone the delay in filing the appeal by one month.

7. Thus concededly, the delay in filing the appeal could be condoned by the Appellate Authority. However, the Appellate Authority did not examine whether the petitioner was prevented by sufficient cause in filing its appeal and failed to exercise its power for condoning the delay in filing the appeal.

8. We are satisfied that the petitioner had provided sufficient reasons for the delay in filing the appeal and the same ought to have been condoned.

9. In view of the above, we set aside the impugned Order-in-Appeal dated 08.05.2024 and remand the matter to the Appellate Authority for consideration on merits. The Appellate Authority is requested to dispose of the appeal as expeditiously as possible and preferably within a period of six weeks from date.

10. The petition is allowed in the aforesaid terms.

11. Pending application is also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 11, 2024
'gsr'

Click here to check corrigendum, if any