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

% ***Date of Decision: 19.09.2024***

\+ **W.P.(C) 9520/2024**

M/S HRC INTERNATIONAL. THROUGH ITS PROP. SH. SUNIL KUMAR TREEPATHI .....Petitioner

Through: Mr. Vineet Bhatia, Mr. Rakesh Kumar, Mr. Chanderkant Singh, Mr. Aamnaya Jagannath Mishra, Mr. Bipin Punia and Mr. Keshav Garg, Advs.

versus

UNION OF INDIA AND ORS. .....Respondents

Through: Mr. Puneet Yadav, Sr. Panel Counsel for R-1/UOI.
Mr. Rajeev Aggarwal, ASC and Mr. Shubham Goel, Adv.
Mr. Harpreet Singh, Sr. SC along with Ms. Suhani Mathur and Mr. Jatin Kumar Gaur, 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, *inter alia,* praying that directions be issued to the respondents to cancel the petitioner's GST registration with effect from 30.04.2022. The petitioner also impugns an order dated 28.06.2022 (hereafter *the impugned cancellation order*) whereby the petitioner's GST registration was cancelled with retrospective effect from 01.07.2017.

2. The petitioner was registered under the Central Goods and Services

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Tax Act, 2017 (hereafter *the CGST Act*)/ the Delhi Goods and Services Tax Act, 2017 (hereafter *the DGST Act*) and was assigned the Goods and Services Tax Identification Number (GSTIN): 07APMPT6940H1ZC.

3. The petitioner filed an application dated 25.05.2022 seeking cancellation of its GST registration on the ground that he has discontinued its business due to financial problems. Pursuant to the said application, the proper officer issued a notice dated 28.05.2022 stating that the proper officer was not satisfied with the petitioner's application. The only reason set out in the said notice dated 28.05.2022 reads as under:

> '*Cancellation Details – Others (Please Specify) - MISMATCH OF ITC IN 3B/2A*'.

4. The petitioner was called upon to file a reply to the said notice dated 28.05.2022 on or before 06.06.2022. The petitioner did not respond to the said notice. Consequently, the application for cancellation of petitioner's GST registration was rejected by an order dated 15.06.2022. Curiously, the order dated 15.06.2022, rejecting the petitioner's application indicates that the petitioner had furnished a reply. On the same date and time, that is on 15.06.2022 – the proper officer issued another Show Cause Notice (*the SCN*) calling upon the petitioner to show cause why its GST registration should not be cancelled. The only ground set out in the SCN reads as "*Address of the firm is not traceable and contact number on portal not working*".

5. The petitioner was called upon to furnish a reply to the SCN within a period of seven working days from the date of service of the SCN and to appear for personal hearing on the appointed date and time. Additionally, the petitioner's GST registration was suspended with effect from the date of the

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SCN, that is, with effect from 15.06.2022. The petitioner did not respond to this notice (the SCN) as well. In the given circumstances, the proper officer passed the impugned cancellation order cancelling the petitioner's GST registration, *albeit* with retrospective effect from 01.07.2017.

6. On 11.10.2023, the petitioner appealed the impugned cancellation order before the appellate authority under Section 107 of the CGST Act/the DGST Act. The said appeal was rejected by an order dated 20.05.2024 on the ground that the appeal was beyond the stipulated period of limitation.

7. The petitioner is not aggrieved by the cancellation of its GST registration as the petitioner had also applied for the same. The petitioner's grievance is confined to the cancellation of its GST registration with retrospective effect.

8. It is material to note that the SCN did not specifically propose cancelling the petitioner's GST registration with retrospective effect. It is also material to note that the SCN mentioned that in the event the petitioner did not appear for a personal hearing at the appointed date and time, the case would be decided *ex parte* on the basis of available records and on merits. However, no date of a personal hearing was communicated to the petitioner. As noted, the SCN does not mention any appointed date or time for a personal hearing.

9. In view of the above, the decision of the proper officer to cancel the petitioner's GST registration with retrospective effect falls foul of the principles of natural justice.

10. The petitioner also questions the grounds on which the petitioner's GST registration was cancelled. According to the SCN, the petitioner's registration was proposed to be cancelled as the petitioner's address was not

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traceable. However, the petitioner has annexed a copy of an electricity bill reflecting the same address.

11. The learned counsel appearing for the respondent fairly states that the impugned cancellation order be modified to make it operative from the date of the SCN as the petitioner's GST registration was suspended with effect from the said date. He also requests that we clarify that this order would not preclude the concerned authorities from initiating any proceedings for recovery of dues or for any statutory non-compliances, including for retrospective cancellation of the petitioner's GST registration, if necessary.

12. The learned counsel for the petitioner is agreeable to the same.

13. In view of the above, we dispose of the present petition by directing that the impugned cancellation order shall take effect from 15.06.2022. The impugned cancellation order is modified to the said extent.

14. We also clarify that this order will not preclude the concerned authorities from initiating any proceedings for recovery of dues or for statutory non-compliances *albeit* in accordance with law.

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

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 19, 2024/cl

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