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

\+ W.P.(C) 9765/2024 & CM No. 40087/2024

M/S CAIRO INTERNATIONAL AND ORS .....Petitioners

Through: Mr. A.K. Giri, Mr. D.P. Singh, Mr. Mohit Raj & Mr. Sanjeev Chopra, Advs.

Versus

THE PRINCIPAL COMMISISIONER DEPARTMENT OF TRADE AND TAXES GOVT OF NCT OF DELHI & ANR.....Respondents

Through: Mr. Udit Malik & Mr. Vishal Chanda, Advs.

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

<u>O R D E R</u>

% **12.09.2024**

1. Issue notice.

2. The learned counsel appearing for the respondents accepts notice.

3. The petitioners has filed the present petition impugning an order dated 31.03.2023 (hereby *the impugned order*), whereby petitioner no.1's Goods and Services Tax (GST) registration was cancelled with retrospective effect from 01.07.2017. The impugned order was passed pursuant to the Show Cause Notice dated 14.03.2023 (hereafter *the impugned SCN*), whereby petitioner no.1 was called upon to show cause why its registration not be cancelled.

4. The only reason set out in the impugned SCN reads as under:

> "1. Principal place of business not found / available at the time of field visit."

5. Petitioner no.1 was also called upon to respond to the impugned SCN within a period of seven working days from the date of service of the impugned SCN and to appear before the concerned officer on the appointed date and time. Additionally, petitioner no.1's GST registration was suspended

with effect from the date of the impugned SCN, that is with effect from 14.03.2023.

6. The learned counsel appearing for the respondents submits that petitioner no.1's principal place of business was attached by the secured lenders under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter *SARFAESI Act*) and therefore, petitioner no.1 cannot claim that it is carrying on its business from its principal place of business. He also submits that petitioner no.1 has not made any application for change of its principal place of business.

7. The learned counsel appearing for the petitioners' states that petitioner no.1's premises was attached by the lenders on 14.03.2023, that is, on the same date on which the impugned SCN was issued to the petitioners.

8. It is seen that the impugned SCN does not propose the cancellation of petitioner no.1's GST registration with retrospective effect from 01.07.2017. Plainly, if it is the respondents' contention that petitioner no.1's principal place of business has been attached by the secured lenders under the SARFAESI Act, on 14.03.2023, the same cannot lead to the conclusion that petitioner no.1 did not carry on its business from the said premises since inception.

9. It is also relevant to note that although the impugned SCN called upon the petitioner to appear for personal hearing before the proper officer, however, no date or time was fixed for personal hearing. Thus, in effect, the petitioners were also not afforded an opportunity of being heard.

10. In view of the above we set aside the impugned order as it has been passed in violation of the principles of natural justice. Clearly, petitioner no.1 had no opportunity to respond as to why its registration be not cancelled from

a retrospective date.

11. The petitioners may file a response to the impugned SCN within a period of two weeks from date. The proper officer shall consider the same and pass a reasoned order after affording the petitioners an opportunity to be heard. In the meanwhile, the petitioners are also at liberty to file an application for change of its principal place of business, if petitioner no.1 continues to carry on its business. It is clarified that the said application will be considered on merits notwithstanding that petitioner no.1's GST registration has been suspended with effect from 14.03.2023.

12. The petition is disposed of in the aforesaid terms. Pending application is also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 12, 2024

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Click here to check corrigendum, if any