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

\+ W.P.(C) 10213/2024 and CM APPLs. 41933/2024, 41934/2024

M/S ZUBIYA ENTERPRISES (THROUGH ITS PROPRIETOR JAHID QURESHI) .....Petitioner

Through: Mr. Yash Aggarwal, Mr. R.P. Singh, Mr. Aman Sinha and Ms. Sakshi Jain, Advs.

versus

SALES TAX OFFICER CLASS-II/ AVATO WARD 74 ZONE 7 .....Respondent

Through: Mr. Udit Malik, ASC (Civil) and Mr. Vishal Chanda, Adv.

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

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

% **26.07.2024**

1. Issue notice.

2. Learned counsel for the respondent accepts notice.

3. The petitioner has filed the present petition impugning an order dated 10.12.2023(hereafter *the impugned order*) whereby the petitioner's GST registration was cancelled principally for the reasons that the petitioner was found unavailable at his place of business.

4. The impugned order was passed pursuant to a Show Cause Notice dated 28.11.2023(hereafter *the impugned SCN*), whereby it was proposed to cancel petitioner's GST registration for three reasons:

(i) that the petitioner had not conducted business from his declared place of business;

(ii) that it had issued invoices without supply of goods and services or both in violation of the provisions of the Central Goods and Services Tax Act, 2017 (*CGST Act, 2017*)/Delhi Goods and Services Tax Act, 2017 (*DGST Act, 2017*); and

(iii) that a letter dated 22.11.2023 was issued by another officer.

5. The petitioner was called upon to reply to the aforementioned impugned SCN within a period of seven working days and was directed to appear before the concerned officer on 07.12.2023 at 15:42 hours. Additionally, the petitioner's GST registration was suspended.

6. Concededly, the petitioner did not respond to the impugned SCN and consequently, the petitioner's GST was cancelled by the impugned order.

7. The petitioner states that prior to the issuance of the impugned SCN, the petitioner had sought an amendment of its GST registration to reflect a change in its principal place of business. The said application was made on 27.11.2023 and was allowed by the order dated 19.12.2023.

8. Learned counsel for the petitioner submits that the petitioner believed that the issue raised in the impugned SCN was addressed.

9. In so far as the change in principal place of business is concerned, it does not appear that the Proper Officer has considered the fact that the petitioner had, prior to issuance of the impugned SCN, changed its place of business.

10. The impugned SCN is also deficient in certain aspects.

11. Although it alleges that the petitioner has issued invoices without supply of goods, no further details regarding this allegation is stated in impugned SCN. Further, the impugned SCN mentions that a letter dated 22.11.2023, was issued by another officer [AC(AV), CGST, Delhi East]. However, copy of the said letter is not annexed with the impugned SCN.

12. In view of the above, we consider it apposite to set aside the impugned order and direct that the petitioner be afforded one more opportunity to respond to the impugned SCN.

13. Since an allegation has been made that the petitioner had raised invoices without goods, the petitioner would also be required to satisfy the Proper Officer that the invoices raised by him were in respect of real supplies.

14. The petitioner may file response to the impugned SCN within a period of two weeks from date.

15. The Proper Officer shall consider the response and pass an appropriate order after affording the petitioner an opportunity of hearing.

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

17. All pending application/s also stand disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 26, 2024/cl