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

\+ W.P.(C) 10264/2024

MOHD. AKSAR ALAM .....Petitioner

Through: Mr. Saral Sharma, Mr. Amit Anand and Ms. Kanika Kimothi, Advs.

versus

THE COMMISSIONER, DELHI GOODS AND SERVICES TAX & ANR. .....Respondents

Through: Mr. Rajeev Aggarwal, ASC and Mr. Shubham Goel, Adv. for R-1 and 2.

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

ORDER

% **29.08.2024**

1. The petitioner has filed the present petition, *inter-alia*, impugning an order dated 26.09.2021 (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 Tax Act, 2017 (CGST Act)/Delhi Goods and Services Tax Act, 2017 (DGST Act) on 17.07.2018 but with effect from 01.07.2017.

3. On 01.09.2021, the petitioner was issued a Show Cause Notice (hereafter *the impugned SCN*) calling upon the petitioner to show cause why its GST registration not be cancelled for the reason that the petitioner had not filed its returns for a continuous period of six months.

4. The petitioner was called upon to furnish a reply to the impugned

SCN within a period of seven working days. Additionally, the petitioner's GST registration was suspended with effect from 01.09.2021. The petitioner was put to notice that in the event he fails to file a reply within the stipulated period or failed to appear for personal hearing on the appointed date and time, the case would be decided *ex-parte* on the basis of the available records. However, the impugned SCN did not specify any date or time for the personal hearing.

5. The petitioner's GST registration was cancelled with retrospective effect from 01.07.2017 – that is from the date it was granted – in terms of the impugned cancellation order.

6. The impugned SCN did not propose any action of retrospective cancellation of the petitioner's GST registration. The impugned cancellation order also does not set out any reasons for any such retrospective cancellation of petitioner's GST registration.

7. It is the petitioner's case that he engaged an accountant to file its GST returns but the said accountant had failed to do so. The petitioner states that by the time he became aware that his GST registration was cancelled, the time period for filing the appeal had also lapsed.

8. The petitioner acknowledges that he had defaulted in filing the returns and not paid the dues. The petitioner also states that after the suspension of his GST registration, the petitioner has not carried on any taxable activity.

9. Mr. Aggarwal, the learned counsel for the respondents fairly states that the petitioner's GST registration may be restored to enable him to file his returns and pay the taxes. He also referred to the proviso (4) of Rule 23(1) of the Central Goods and Services Tax Rules, 2017, which provides for a period of thirty days for a tax payer to file his returns in case the order

cancelling its registration is revoked.

10. In view of the above, we consider it apposite to set aside the impugned cancellation order and direct that the petitioner's GST registration be restored forthwith.

11. The petitioner is bound down to his statement that he will file his returns up to date and pay the taxes due along with interest and penalty, if any, within the stipulated period of thirty days.

12. It is clarified that if the petitioner fails to do so, the respondents are not precluded from cancelling the petitioner's GST registration without further notice.

13. It is also clarified that the respondents are not precluded from initiating such proceedings as may be warranted for statutory non-compliance or for recovery of any dues.

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

VIBHU BAKHRU, J

SACHIN DATTA, J

AUGUST 29, 2024/cl