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

% *Date of Decision : 05.08.2024*

\+ **W.P.(C) 10504/2024 & CM APPL. 43168/2024**

M/S J M TRADERS, THROUGH PROPRIETOR SHIVAM BANSAL

.....Petitioner

Through: Mr.Prabhat Kumar, Advocate.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr.Amit Gutpa, Sr P C, Mr.Vidur Dwivedi, GP and Mr.Shakir Shabir, Advocate for UOI/R1.
Mr.Rajeev Aggarwal, ASC and Mr.Shubham Goel, Advocate for R2 and R3.

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 dated 14.03.2023 (hereafter *the impugned cancellation order*) whereby the petitioner's GST registration was cancelled with the retrospective effect from 29.11.2018.

2. The petitioner also prays in the alternative that the impugned cancellation order may be modified to be operative prospectively from the date of the Show Cause Notice dated 22.12.2022 (hereafter *the SCN*).

3. The petitioner was registered with the GST authorities with effect from 17.12.2018 and was assigned the Goods and Services Tax Identification (GSTIN): 07CVLPB4485L1Z4. The petitioner claims that due to adverse circumstances resulting from the outbreak of COVID-19, his business suffered and in effect shut down. In the circumstances, the petitioner filed an application dated 02.09.2021 seeking cancellation of his GST registration. In response to the said application, the Proper Officer issued the notice dated 15.11.2021 stating that the petitioner's application was liable to be rejected for the following reason:-

> "Cancellation Details - Others (Please specify) - Pay your previous liabilities."

4. As apparent from the above, the letter does not indicate any cogent reasons for proposing to reject the petitioner's application for cancellation of his GST registration. It is well settled that the cancellation of the GST registration does not absolve the tax payer from discharge of his dues and liabilities under the relevant enactment.

5. Thereafter, the Proper Officer issued the SCN proposing to cancel the petitioner's GST registration. The only reason set out in the SCN is that "*Complaint received from the Assistant Commissioner Central Goods & Service Tax, Janakpuri Division.*" The petitioner was called upon to file a response to the SCN within seven working days from the date of service of the SCN. Additionally, the petitioner's GST registration was also suspended with effect from 22.12.2022, being the date of the SCN.

6. Thereafter, the petitioner's GST registration was cancelled in terms of the impugned cancellation order. The impugned cancellation order does not

reflect any reason for cancellation of the petitioner's GST registration. It merely states that the same is in reference to the SCN.

7. In view of the above, the SCN as well as the impugned cancellation order are liable to be set aside. The SCN does not provide any clue to the reasons for proposing to cancel the petitioner's GST registration. It refers to a complaint, which was not forwarded to the petitioner, and therefore, the petitioner had no opportunity to address any allegations that may have been made in the complaint. The impugned cancellation order is also liable to be set aside for the same reason.

8. As noted above, it is the petitioner's stand that he has closed his business and has since been filing 'Nil' returns. It is also apparent that the petitioner also seeks that his GST registration be cancelled.

9. In view of the above, this Court considers it apposite to direct that the petitioner's GST registration be cancelled prospectively from the date of the impugned cancellation order and not retrospectively with effect from 29.11.2018.

10. It is clarified that this will not absolve the petitioner from payment of any liability under the Central Goods and Services Tax Act, 2017, the Delhi Goods and Services Tax Act, 2017, and/or the Integrated Goods and Services Tax Act, 2017 or provide any immunity from being held accountable for statutory violations, if any. This order will not preclude the respondent authority from initiating any action against the petitioner, if warranted, in accordance with the law.

11. The petition stands disposed of in the aforesaid terms. Pending application also stands disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

AUGUST 05, 2024
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Click here to check corrigendum, if any