



\$~58

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

%

Date of Decision : 31.07.2024+ **W.P.(C) 10517/2024 & CM APPL. 43229/2024**

M/S GIRIK ENTERPRISES

.....Petitioner

Through: Mr Vibhas Kumar Jha, Mr Rajat Pandey and Ms Manju Pandey, Advocates.

versus

THE COMMISSIONER SGST DELHI AND ORS

.....Respondent

Through: Mr.Udit Malik, ASC and Mr.Vishal Chanda, Advocate for GNCTD.

CORAM:**HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MR. JUSTICE SACHIN DATTA****VIBHU BAKHRU, J. (ORAL)**

1. Issue notice. The learned counsel for the respondent accepts notice.
2. The petitioner has filed the present petition impugning the order dated 08.07.2024 (hereafter *the impugned order*) passed by the Appellate Authority whereby the petitioner's appeal against an order dated 16.06.2020 cancelling the petitioner's GST registration was cancelled *ab initio* (with effect from 01.07.2017).
3. The petitioner was registered under the Central Goods and Services Tax Act, 2017 (hereafter *the CGST Act*) with effect from 01.07.2017. The petitioner was assigned the Goods and Services Tax Identification Number (GSTIN): 07ANJPN7785M1Z1.



4. The petitioner states that he had duly filed the returns for the financial years 2017-18 and 2018-19, however, the petitioner suffered losses and therefore, decided to discontinue his business. Consequently, the petitioner applied for cancellation of his GST registration on 21.03.2020. The petitioner states that pursuant to said application, the proper officer issued a notice seeking additional information on 15.05.2020. The said notice was communicated online. It is stated that on account of disruptions caused by the COVID-19 pandemic, the petitioner could not consult his Chartered Accountant, who was engaged to file the GST returns and had access to the portal, to apprise himself of the communications from the GST Authorities.

5. Thereafter, the Proper Officer issued a Show Cause Notice dated 29.05.2020 (hereafter *the SCN*) and called upon the petitioner to show cause as to why his GST registration should not be cancelled on account of the following reason: -

“Non compliance of any specified provisions in the GST Act or the Rules made thereunder as may be prescribed”

6. The petitioner was also called upon to furnish his reply to the SCN within the period of seven working days from the date of service of the SCN and was also directed to appear before the proper officer on 03.06.2020. The petitioner claims that he did not check the GST portal and therefore, was unaware of the SCN.

7. Pursuant to the SCN, the proper officer passed the order dated 16.06.2020, cancelling the petitioner's GST registration with retrospective effect from 01.07.2017.

8. On 07.11.2023, the petitioner filed an appeal against the order for



cancellation of registration dated 16.06.2020, which was rejected by the impugned order.

9. The petitioner is not aggrieved by the cancellation of the GST registration. His grievance is limited to the cancellation of the GST registration with retrospective effect.

10. The SCN does not specify any reason for cancelling the petitioner's GST registration with retrospective effect. It is not possible to ascertain the reasons as to why the proper officer proposed the cancellation of the petitioner's GST registration retrospectively from a plain reading of the SCN. The only reason set out in the SCN is the non-compliance of the specified provisions of the GST Act or the Rules made thereunder. However, the SCN does not mention any specific provision of the GST Act or the Rules, which were allegedly violated by the petitioner. More importantly, the SCN does not propose the cancellation of the petitioner's GST registration with retrospective effect.

11. Although, the petitioner was not aware of the SCN, however, even if it is accepted that the petitioner had duly received the same, no action could be taken pursuant to the said SCN. This is because the SCN is bereft of any reasons and fails to meet the standards as are required of a show cause notice. The purpose of issuing a show cause notice is to provide an opportunity to the noticee to show cause as to why adverse action should not be taken against him. Thus, any show cause notice must clearly set out the reasons for the proposed adverse action in order to enable the noticee to furnish a meaningful response. As is apparent from the plain reading of the SCN, the same fails to meet this standard.



12. The order dated 16.06.2020, cancelling the GST registration of the petitioner is also bereft of any reasons. It merely mentions that it is pursuant to the SCN. It also mentions that it is in reference to the reply dated 07.06.2020. However, concededly, no such reply was submitted by the petitioner. The order cancelling the petitioner's GST registration is based on a template that automatically picks up a reference to a reply even in the cases where none has been furnished.

13. As noted above, the petitioner is not aggrieved by the cancellation of his GST registration, but he seeks that the cancellation should not be operative with retrospective effect.

14. In view of the above, we consider it apposite to direct the order dated 16.06.2020 – cancelling the GST registration of the petitioner – will take effect from the date of the SCN, that is, 29.05.2020 and not *ab initio*.

15. We clarify that this order would not preclude the concerned authorities from initiating any proceedings for any statutory non-compliance or recovery of any statutory dues in accordance with law.

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

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 31, 2024

M

Click here to check corrigendum, if any