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

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Date of Decision: 12.08.2024

+ **W.P.(C) 10986/2024**

M/S STAR ENTERPRISES THROUGH ITS PROPRIETOR SH.
HARSH

.....Petitioner

Through: Mr. Vineet Bhatia, Mr. Bipin
Punia, Ms. Aamnaya Jagannath
Mishra and Mr. Keshav Garg,
Adv.

versus

COMMISSIONER OF DELHI GST AND ANR.Respondents

Through: Mr. Rajeev Aggarwal, ASC and
Mr. Shubham Goel, Adv.

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 20.01.2022 (hereafter *the impugned order*), whereby the petitioner's Goods and Services Tax (GST) registration was cancelled with retrospective effect.
2. The petitioner was registered under the Central Goods and Services Tax Act, 2017 (hereafter the *CGST Act*) and was assigned the Goods and Services Tax Identification Number (GSTIN) 07AJPPH0815A1ZP.
3. The petitioner was issued a Show Cause Notice dated 21.12.2021 (hereafter the *SCN*), whereby the petitioner was called



upon to show cause why its registration not be cancelled. The reasons set out in the SCN allude to the provisions to file returns under Section 39 of the CGST Act and the details of outward supplies furnished by the petitioner in Form GSTR-1. However, it does not contain any allegation that the said provisions were not complied with or any discrepancy was found in the returns furnished by the petitioner in Form GSTR-1. The reasons simply mention the returns furnished by the petitioner under Section 39 of the CGST Act and details of the outwards supplies furnished by the petitioner in Form GSTR-1. However, the SCN also alleged that the petitioner had not complied with the provisions of law and was not found functioning at the time of field visit.

4. The petitioner was called upon to respond to the SCN within a period of 30 days from the date of the SCN and was also directed to appear before the concerned proper officer on 23.12.2021.

5. Thereafter, the petitioner's GST registration was cancelled by the impugned order. The impugned order does not mention any reason for cancelling the petitioner's GST registration but merely states that the same is in reference to the SCN and that the petitioner did not appear on the date fixed for hearing. The tabular statement set out in the impugned order indicates that no tax or other dues were determined as payable by the petitioner.

6. The petitioner claims that he filed the reply to the SCN belatedly stating that he was not available at the time of field visit as he was travelling outside Delhi for business. He also requested that the physical verification of his place of business be conducted once again.



The impugned order does not indicate that the explanations furnished by the petitioner were considered; as stated above, no reasons are provided for rejecting the same.

7. It is also important to note that the impugned order cancels the petitioner's GST registration with retrospective effect from 17.07.2021. However, the SCN does not mention any such proposed action. More importantly, the impugned order also does not reflect any reason for the same.

8. The learned counsel appearing for the petitioner submits that the petitioner has since closed down his business and is not aggrieved by cancellation of his GST registration. He is, however, aggrieved by cancellation of his registration being operative retrospectively. He also states that the petitioner has already filed his returns belatedly.

9. Mr. Aggarwal, learned counsel appearing for the respondents states that he has no objection if the impugned order is modified to effect that the cancellation of the petitioner's registration be made prospectively from the date of the SCN as the petitioner's GST was suspended from the date of issuance of the SCN – with effect from 21.12.2021.

10. The learned counsel for the petitioner concurs with the said submissions.

11. In view of the above, we direct that the impugned order cancelling the petitioner's GST registration would be operative with effect from 21.12.2021 and not with effect from 17.07.2021. The impugned order is modified to the aforesaid extent.

12. It is clarified that this would not preclude the concerned



authorities from initiating any action, if so warranted, in accordance with law. This will also include the cancellation of the petitioner's GST registration with the retrospective effect, if the proper officer considers it necessary.

13. The present petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

SACHIN DATTA, J

AUGUST 12, 2024/cl