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

% ***Date of Decision: 13.08.2024***

\+ W.P.(C) 11202/2024 CM APPL. 46329/2024

ALUFAB ORES PRIVATE LIMITED .....Petitioner

Through: Mr. Arvind Duggal and Mr. Gulshan Sharma, Advs.

versus

DEPARTMENT OF TRADES AND TAXES & ANR.....Respondents

Through: Mr. Karn Bhardwaj, ASC along with Mr. Shubham Singh, Mr. Rajat Gaba and Mr. Saurah Dahiya, Advs.

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

VIBHU BAKHRU, J. (ORAL)

1. Issue notice.

2. The learned counsel for the respondents accepts notice.

3. The petitioner has filed the present petition, *inter alia,* impugning the order dated 13.02.2024 (hereafter *the impugned order*), passed by the appellate authority rejecting the petitioner's appeal under Section 107 of the Central Goods and Services Tax Act, 2017 (hereafter *the CGST Act*)/ the Delhi Goods and Services Tax Act, 2017 (hereafter *the DGST Act*), against an order passed by the proper officer.

4. The petitioner had preferred the said appeal against an order dated 28.02.2023 (hereafter *the impugned cancellation order*) whereby the petitioner's GST registration was cancelled. The appellate authority found that the appeal was beyond the period of limitation and accordingly, rejected

the same.

5. The petitioner is, essentially, aggrieved by the impugned cancellation order cancelling its GST registration.

6. The petitioner was registered with the GST authorities and was assigned the Goods and Services Tax Identification Number (GSTIN:07AAVCA8462C1ZD).

7. Apparently, it was reported that the petitioner was not functioning at its principal place of business. In the circumstances, the proper officer issued a Show Cause Notice dated 06.09.2022 (hereafter *the impugned SCN*) calling upon the petitioner to show cause as to why its GST registration should not be cancelled. The petitioner was directed to file a reply within a period of seven working days of the receipt of the impugned SCN and also to appear before the proper officer at an appointed date and time. Additionally, the petitioner's GST registration was suspended with effect from the date of the impugned SCN.

8. Concededly, the petitioner did not reply to the impugned SCN. Consequently, the petitioner's GST registration was cancelled with retrospective effect from 06.11.2021, in terms of the impugned cancellation order passed by the proper officer. The impugned cancellation order indicates that no tax liability was determined as payable by the petitioner.

9. The petitioner filed an application for revocation of the impugned cancellation order. On 03.03.2023, the proper officer, once again, issued a Show Cause Notice calling upon the petitioner to appear in person with all required documents regarding the existence of the petitioner company. The petitioner was also directed to appear before the proper officer on 09.03.2023 at 10:31 AM. The petitioner failed to avail the said opportunity

and consequently, the petitioner's application for revocation of the impugned cancellation order was also rejected.

10. Thereafter, the petitioner filed an appeal against the impugned cancellation order before the appellate authority under Section 107 of the CGST Act/DGST Act. Since the same was beyond the period of limitation, the appellate authority rejected the same.

11. The learned counsel for the petitioner submits that the petitioner had amended its Certificate of Registration and had changed its principal place of business. However, the said fact escaped the attention of the proper officer. He also submits that the petitioner had no opportunity of personal hearing at the first stage as the impugned SCN did not specify the date or time on which the petitioner was to appear for personal hearing.

12. The petitioner has also explained that the delay in availing the appellate remedies was on account of certain mitigating circumstances. One Sh. Vinay Parkash Goel, who was the father of one of the Directors and the husband of another Director of the petitioner company expired on 21.04.2023.

13. The petitioner has been afforded sufficient opportunity to be heard in the proceedings relating to its application for revocation of the impugned cancellation order. And, it is apparent that the petitioner was remiss in not availing the same. However, we note that the petitioner was not afforded an opportunity to be heard at the threshold stage as the impugned SCN did not specify the date and time on which the personal hearing was to be scheduled.

14. Considering the mitigating circumstances in this case, we consider it apposite that the petitioner may be granted one more opportunity to satisfy

the proper officer that it was in existence at the material time and continues to be in existence.

15. We, accordingly, restore the petitioner's application for revocation before the proper officer. The petitioner is granted one more opportunity to respond to the Show Cause Notice dated 03.03.2023 and furnish all material documents regarding its existence within a period of one week from date.

16. The proper officer shall consider the same and take an appropriate decision after affording the petitioner an opportunity to be heard.

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

18. Pending application also stands disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

AUGUST 13, 2024/cl