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

\+ W.P.(C) 11209/2024

RINKUKUMARI VINOD KUMAR SINGH (PROP. M/S R.S. SOLUTIONS) .....Petitioner

Through: Mr. Nitin Gulati and Ms. Reena Gandhi, Advocates.

versus

SALES TAX OFFICER CLASS II / AVATO-WARD 80 & ANR. .....Respondents

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

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

O R D E R

% 23.09.2024

1. Issue notice.

2. The learned counsel for the respondents accepts notice.

3. The petitioner has filed the present petition impugning an order dated 26.07.2023 (hereafter *the impugned cancellation order*), whereby the petitioner's GST registration was cancelled.

4. The petitioner was registered with the GST Authorities and was assigned the Goods and Services Tax Identification Number (GSTIN): 07CSDPS6903D1ZR. The petitioner had defaulted in filing its returns for a continuous period of six months.

5. In view of the above, the proper officer issued a show cause notice dated 08.11.2022 (hereafter *the SCN*) calling upon the petitioner to show cause as to why its GST Registration not be cancelled on account of failure

to furnish the returns under Section 39 of the Central Goods and Services Tax Act, 2017 (hereafter *the CGST Act*) for a continuous period of six months. The petitioner was called upon to respond to the SCN within a period of thirty days from the date of the service of the SCN and was directed to appear before the proper officer on 08.12.2022. The petitioner's GST Registration was also suspended with effect from the same date – 08.11.2022.

6. The petitioner did not respond to the SCN. Resultantly, by the impugned cancellation order, the petitioner's GST registration was cancelled with effect from 02.07.2017.

7. The petitioner made an application for revocation of the impugned cancellation order, whereby its registration was cancelled. The proper officer dismissed the petitioner's application as it was filed beyond the period of three months stipulated under Section 107 of the CGST Act.

8. The petitioner does not dispute that he has defaulted in complying with the provisions of Section 39 of the CGST Act and had not filed the returns as required. However, he undertakes that all returns will be filed and outstanding dues will be paid.

9. In ***TVL. Suguna Cutpiece Centre v. Appellate Deputy Commissioner (ST) (GST), SALEM: 2022 (61) G.S.T.L. 515 (Mad)***, the Hon'ble High Court of Madras had considered import of the actions of cancellation of a taxpayer's GST registration and noticed that the department's object cannot be to preclude taxpayers from carrying on their business. This Court has also taken a similar view in ***M/s Rakesh Enterprises v. The Principal Commissioner Central Goods and Services Tax & Ors.: Neutral Citaion***

No. 2023/DHC/001018.

10. In view of the above, we consider it apposite to allow the present petition and direct the respondents to restore the petitioner's GST registration. However, this is subject to the condition that the petitioner shall immediately, within a period of one week of the petitioner's GST registration being restored, file the necessary returns and pay all its dues along with interest.

11. In the event the petitioner does not comply with the aforesaid undertaking, the respondent shall proceed to cancel the petitioner's GST registration.

12. It is also clarified that this would not preclude the respondent authorities from initiating any other action for non-compliance of the statutory provisions or recovery of any amount that may be due.

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

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 23, 2024/*at*