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

% *Date of Decision : 22.08.2024*

\+ **W.P.(C) 11562/2024 & CM APPL. 48012/2024**

RAVI .....Petitioner

Through: Mr Anurag Rajput, Mr Sahib Rajput, Mr Sahil Puri, Mr Sukhjeet Puri, and Mr Dhruv Bhardwaj Advocates.

versus

AVATO WARD 84 STATE GOODS AND SERVICES TAX AND ANR. .....Respondents

Through: Mr Karan Bhardwaj, ASC and Mr Shubham Singh, Mr Rajat Gaba and Mr.Sourabh Dahiya, Advocates.

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 an order dated 14.02.2024 (hereafter *the impugned order*) whereby the petitioner's Goods and Services Tax (GST) registration was cancelled with retrospective effect from 16.12.2022.

4. It is also material to note that the petitioner was issued a Show Cause Notice dated 05.04.2023 calling upon the petitioner to show cause as to why

his GST registration not be cancelled. It was alleged that the petitioner was found to be non-functioning / non-existing at the principal place of business. The petitioner had responded on 11.04.2023 to the said Show Cause Notice dated 05.04.2023 and had stated that his shop was closed for a week on account of certain events in his family. He also invited the concerned officer to conduct a fresh physical verification and revoke the order cancelling his GST registration.

5. It is stated that the concerned officer had visited the premises of the petitioner on 10.04.2023 and had uploaded the photographs on the GST portal. Based on the same, proceedings for cancelling the petitioner's GST were dropped by an order dated 12.04.2023. The suspension of the petitioner's GST registration was also revoked. However, a few months later, once again, proceedings were begun to cancel the petitioner's GST registration by issuance of a Show Cause Notice dated 31.07.2023 (hereafter *the impugned SCN*).

6. The impugned order was passed pursuant to the impugned SCN, whereby the petitioner was called upon to show cause as to why his GST registration not be cancelled. The only reason set out in the impugned SCN reads as under:-

> "1. Section 29(2)(e)-registration obtained by means of fraud, wilful misstatement or suppression of facts"

7. The petitioner was called upon to furnish a reply to the impugned SCN within seven working days from the date of service of the impugned SCN and also to appear before the concerned officer for a personal hearing

on the appointed date and time. Additionally, the petitioner's GST registration was suspended with effect from the date of the impugned SCN – 31.07.2023.

8. It is material to note that although the petitioner was directed to appear for a personal hearing on the appointed date and time, no such date or time was indicated in the impugned SCN.

9. It is apparent from the above, the impugned SCN is cryptic and does not set out any details for proposing to cancel the petitioner's GST registration. It merely reproduces the statutory provision which enables the proper officer to cancel a tax payer's GST registration if it is obtained by means of fraud, wilful misstatement or suppression of facts. The impugned SCN does not mention either the particulars or the nature of the alleged fraud. It does not mention any statement which is alleged to be a wilful misstatement or the facts which were allegedly supressed by the petitioner.

10. It is also relevant to note that the impugned SCN does not propose the cancellation of the petitioner's GST registration with retrospective effect.

11. As noted above, the impugned SCN also did not mention the date and time fixed for the personal hearing.

12. It is clear that the impugned SCN fails to meet the standards required of a show cause notice. The purpose of issuance of a show cause notice is to enable the noticee to respond to the allegations on the basis of which an adverse action is proposed. It is a fundamental rule of natural justice that a person must be afforded an opportunity to meet the allegations made against

him. In the present case, the petitioner has been denied of that opportunity.

13. In view of the above, the impugned order has been passed in violation of the principles of natural justice. The same is also unreasoned. Therefore, it is liable to be set aside.

14. In view of the above, the present petition is allowed. The impugned order is set aside. The respondents are directed to restore the petitioner's GST registration forthwith. However, it is clarified that this order will not preclude the respondents from initiating any fresh proceedings for any statutory violation or for recovery of any dues. The respondents are also not precluded from initiating any proceedings for cancellation of the petitioner's GST registration, if warranted, *albeit,* in accordance with law.

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

VIBHU BAKHRU, J

SACHIN DATTA, J

AUGUST 22, 2024

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Click here to check corrigendum, if any