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

% *Date of Decision : 03.09.2024*

\+ **W.P.(C) 11785/2024**

M/S S.M. TRADING CO.
.....Petitioner
Through: Mr Pranay Jain and Mr Karan Singh, Advocates.

versus

ASSISTANT COMMISSIONER OF CENTRAL GOODS AND SERVICE TAX, MANDOLI DIVISION, EAST DELHI
.....Respondent
Through: Ms Monica Benjamin, SSC and Ms Nancy Jain, Advocates.

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, *inter alia,* impugning an order dated 21.05.2024 (hereafter *the impugned cancellation order*) whereby the petitioner's Goods and Services Tax (GST) registration was cancelled with retrospective effect from 03.07.2017.

2. The impugned cancellation order was passed pursuant to a Show Cause Notice dated 29.04.2024 (hereafter *the impugned SCN*). The only reason stated in the impugned SCN proposing to cancel the petitioner's GST registration reads as under:-

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

3. The petitioner was called upon to furnish a reply to the impugned SCN within seven working days from the date of service of said notice. The petitioner was also called upon to appear before the concerned proper officer on 06.05.2024 at 12:35 PM. Additionally, the petitioner's GST registration was suspended from the date of the impugned SCN, that is, with effect from 29.04.2024.

4. The petitioner was registered under the Central Goods and Services Tax Act, 2017 (hereafter *the CGST Act*) and the Delhi Goods and Services Tax Act, 2017 (hereafter *the DGST Act*) and was assigned the Goods and Service Tax Identification No. (GSTIN):07AUPPK2390E121. The proper officer had issued the Show Cause Notice dated 05.09.2023 proposing to cancel the petitioner's GST registration. The reasons as set out in the Show Cause Notice dated 05.09.2023 were also identical to the reasons as set out in the impugned SCN. The proper officer thereafter proceeded to cancel the petitioner's GST registration by an order dated 22.09.2023 issued pursuant to the Show Cause Notice dated 05.09.2023.

5. The petitioner applied for revocation of said cancellation order. The said application was allowed and by an order dated 02.11.2023, the order dated 22.09.2023 cancelling the petitioner's GST registration, was revoked.

6. The learned counsel appearing on behalf of the respondent submits that they have cogent reasons on the basis of which the impugned SCN was issued once again proposing to cancel the petitioner's GST registration. She

submits that the proper officer had received a letter from Anti Evasion Branch directing the proper officer to take necessary action for the cancellation the petitioner's GST registration and the impugned order was issued in compliance with the said letter.

7. It is clear from the above that the impugned order is unsustainable as it has been passed in gross violation of the principles of natural justice. The impugned SCN does not mention any reason for proposing to cancel the petitioner's GST registration. It merely reproduces the statutory provision which enables the proper officer to cancel the tax payer's registration, if it is obtained by means of fraud, wilful misstatement or suppression of facts. The impugned SCN does not set out any particulars as to the alleged fraud or statement which is alleged to be a wilful misstatement. It provides no clue as to facts allegedly suppressed by the petitioner. The purpose of issuance of a show cause notice is to enable a noticee to meaningfully respond to the same.

8. In the present case, the impugned SCN does not set out any specific reason which was capable of eliciting a meaningful response. In absence of any particulars as to the alleged fraud, wilful misstatement, or facts allegedly supressed, the petitioner cannot be expected to respond to the same. It is also not clear from the impugned SCN whether the allegation is one of obtaining registration by means of fraud or by wilful misstatement or by suppressing facts. It is also important to note that the impugned SCN did not propose any action for cancelling the petitioner's GST registration with retrospective effect.

9. According to the learned counsel appearing for the respondent, the petitioner's GST registration was cancelled retrospectively pursuant to the directions issued by another authority (Anit Evasion Branch).

10. It is apparent that the impugned cancellation order has been passed by the proper officer pursuant to the directions by another authority without any independent satisfaction as to the said grounds. Importantly, the letter stated to have been received from the Anti Evasion Branch directing the proper officer to cancel the petitioner's registration, was neither mentioned in the impugned SCN nor accompanied it.

11. It is apparent from the above, that the impugned order is liable to be set aside as having been passed in violation of the principles of natural justice.

12. In view of the above, the petition is allowed. The impugned cancellation order is set aside. The respondent are directed to restore the petitioner's GST registration forthwith.

13. It is clarified that this order will not preclude the respondent from initiating any proceedings for any statutory violation or for recovery of dues, if any, in accordance with law.

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

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 03, 2024

M *Click here to check corrigendum, if any*