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

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Date of Decision : 12.09.2024

+ **W.P.(C) 11913/2024**

M/S BALAJI INDUSTRIES (VIPIN KUMAR)Petitioner
Through: Mr. Roopesh Kumar Mishra and
Mr. Vikash Singh, Advocates.

versus

THE PRINCIPAL COMMISSIONER CGST DELHI NORTH
COMMISSIONERATE & ANR.Respondents
Through: Ms. Neha Malik, SC along with Ms.
Damini Vishwakarma and Mr. Sahil
Malik, 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 praying that the order dated 10.06.2022 (hereinafter *the impugned order*), whereby the petitioner's GST registration was cancelled with retrospective effect from 11.09.2017 be modified to the limited extent that the same be made operative from March, 2022.
2. The petitioner was registered under the Central Goods and Services Tax Act, 2017 (hereafter *the CGST Act*)/ the Delhi Goods and Services Tax Act, 2017 (hereafter *the DGST Act*) with effect from 11.09.2017 and was assigned the Goods and Services Tax Identification Number (GSTIN)



07DXWPK2847B1Z6.

3. The petitioner claims that it had stopped carrying on its business in March, 2022 and had also requested its Chartered Accountant to make an appropriate application for cancellation of its GST registration.

4. Subsequently, on 24.05.2022, the proper officer sent a Show Cause Notice (hereafter *the* SCN) calling upon the petitioner to show cause why its GST registration not be cancelled. The only reason referred to in the SCN reads as under :-

“1 Non compliance of any specified provisions in the GST Act or the Rules made thereunder as may be prescribed”

5. The petitioner was called upon to file its reply to the SCN within a period of seven working days from the date of receipt of notice and to appear before the concerned officer on 31.05.2022 at 03:20 PM. The petitioner’s GST registration was also suspended with effect from the date of the SCN, that is, with effect from 24.05.2022.

6. It is the petitioner’s case that since it had stopped carrying on business, it did not examine the GST portal which, in any event, was accessible only by its Chartered Accountant. The petitioner also did not receive the notice as its registered email was also that of its Chartered Accountant.

7. Since the petitioner failed to file its response to the SCN, the petitioner’s GST registration was cancelled in terms of the impugned order. The reasons set out in the impugned order for cancelling the petitioner’s GST registration, read as under :-

“1. The taxpayer neither attended personal hearing nor responded to the query raised. The taxpayer has not updated Bank Account details as per Rule 10A, CGST Rules, 2017.



Further, the taxpayer neither updated/uploaded/submitted other documents against the discrepancies noticed. Hence, the registration of the taxpayer is cancelled under Section 29 of CGST Act, 2017. Your duty, penalty and interest thereof as applicable is still due on you and you are hereby advised to file/deposit the same. If not, suitable action as per law will be initiated against you.”

8. It is apparent from the above that the reasons as set out in the impugned order were not the reasons as set out in the SCN. Further, the SCN also did not propose cancellation of the petitioner’s GST registration with retrospective effect from 11.09.2017.

9. The petitioner filed an appeal against the impugned order cancelling its registration. However, the same was rejected by the appellate authority by the order dated 14.05.2024 on the ground that the petitioner’s appeal was barred by limitation.

10. As noted above, the reason for which the petitioner’s GST registration was cancelled was not reflected in the SCN. Although, the petitioner claims that it did not receive the SCN, it is apparent that even if it had, the same provided it no opportunity to respond to the reasons as set out in the impugned order cancelling its GST registration.

11. As noted above, the petitioner is not aggrieved by the cancellation of its GST registration as it had closed down its business. The petitioner is, essentially, aggrieved by cancelling of its GST registration with retrospective effect.

12. The present petition was listed on 29.08.2024 and the learned counsel appearing for the respondents sought time to take instructions.

13. The learned counsel for the respondents states that the respondents have no objection if the cancellation of the petitioner’s GST registration is



made operative with effect from the date of the SCN, that is, with effect from 24.05.2022.

14. In view of above, the present petition is disposed of with the direction that the petitioner's GST registration stands cancelled with effect from 24.05.2022 (being the date on which it was suspended) and not with retrospective effect from 11.09.2017.

15. The impugned order is modified to the aforesaid extent.

16. We clarify that this order will not preclude the respondents from initiating any proceedings for any statutory violation or for recovery of any dues, if so warranted, *albeit*, in accordance with law.

17. The present petition is disposed of in the above terms.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 12, 2024

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