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

% ***Date of Decision : 11.09.2024***

\+ **W.P.(C) 12056/2024**

PRAKASH SINGH BISHT .....Petitioner

Through: Mr. Gaurav Srivastava, Advocate along with Mr. Puneet Kumar and Mr. Vipul Kumar, Advocates.

versus

COMMISSIONER OF DELHI GOODS AND SERVICES TAX .....Respondent

Through: Mr. Shubham Tyagi, SSC, CBIC and Ms. Navruti Ojha, Advocates.
Mr. Rajeev Aggarwal, ASC along with Mr. Mayank Kamra and Mr. Shubham Goel, 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 the order dated 13.04.2023 (hereafter *the impugned order*), whereby the petitioner's GST registration was cancelled with retrospective effect from 15.08.2021. The petitioner also prays that directions be issued to the respondent to enable the petitioner to file his returns for the month of February, 2023.

2. The petitioner claims that, at the material time, he was carrying on the

business of an advertising agency. The petitioner had secured registration under the Central Goods and Services Tax Act, 2017 and was assigned the Goods and Services Tax Identification Number (GSTIN): 07DXEPB2413J1ZU.

3. The petitioner claims that he had carried on his business from August 2021 till November, 2022 and had also furnished his GST returns regularly. The petitioner claims that sometime in July, 2022, he sought to change his mode of operations. Accordingly, he constituted and incorporated a One Person Company (OPC) and claims that he gradually transferred his business and assets to the said company and ceased to carry on business under the name of the sole proprietorship concern, "GAMERFLEET", with effect from November, 2022. The petitioner also continued to file his GST returns for the period November, 2022 to January, 2023.

4. On 06.02.2023, the petitioner received a Show Cause Notice (hereafter *the SCN*) calling upon the petitioner to show cause why his GST registration not be cancelled. The only reason set out in the SCN for proposing to cancel the petitioner's GST registration reads as – "Others". The petitioner was called upon to furnish a reply to the SCN within a period of seven working days from the date of service of the notice. He was also called upon to appear before the proper officer on 17.02.2023 at 11:00 AM. Additionally, the petitioner's GST registration was suspended with effect from the date of the SCN, that is, with effect from 06.02.2023.

5. Pursuant to the aforementioned SCN, the petitioner's GST registration was cancelled by the impugned order.

6. The petitioner filed an application dated 07.06.2023 seeking condonation of delay for filing an application for revocation of the

impugned order cancelling his GST registration. The petitioner was issued a Show Cause Notice dated 14.08.2023 calling upon the petitioner to show cause why his application for revocation of the cancellation order not be rejected as the same was beyond the period stipulated for filing of such an application. The petitioner states that no order has been passed pursuant to the said Show Cause Notice dated 14.08.2023.

7. In the aforesaid circumstances, the petitioner filed an appeal under Section 107 of the Central Goods & Services Tax Act, 2017/ the Delhi Goods and Services Tax Act, 2017, assailing the impugned order, whereby his GST registration was cancelled. The said appeal was dismissed by the order dated 15.05.2024 on the ground that it is beyond the period stipulated for filing the appeal.

8. The learned counsel appearing for the respondent states that the proper officer had provided the necessary reasons for proposing to cancel the petitioner's GST registration in terms of the SCN but due to a technical glitch, the said reasons did not form part of the SCN. Thus, the same were not communicated to the petitioner.

9. It is apparent from the above that the impugned order, which has been passed, cancelling the petitioner's GST registration, falls foul of the principles of the natural justice.

10. Concededly, the petitioner has had no opportunity to respond to the allegations on the basis of which the said action was premised. Neither the SCN nor the impugned order reflect any reasons for cancelling the petitioner's GST registration.

11. In view of the above, the impugned order is set aside. The petitioner's GST registration is directed to be restored forthwith. The petitioner shall file

his pending returns within a period of thirty days.

12. The petitioner is also not precluded from filing an application for cancellation of his GST registration on account of transfer of his business. Needless to say, if any such application is filed, the same would be considered in accordance with law.

13. It is also clarified that the respondent is not precluded from initiating any fresh proceedings for statutory non-compliance, if any, or for recovery of dues, in accordance with law.

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

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 11, 2024
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