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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision : 06.09.2024

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W.P.(C) 12183/2024 & CM APPL.50686/2024

M/S SS ENTERPRISES

THROUGH PROPRIETOR (SH. VIKRAM KUMAR)Petitioner

Through: Mr. Priyanka Goel, Advocate.

versus

PRINCIPAL COMMISSIONER, CGST DELHI, NORTH

.....Respondents

Through: Advocate (appearance not given).

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 respondent accepts notice.
3. The petitioner has filed the present petition, *inter alia*, impugning a Show Cause Notice dated 05.03.2024 (hereafter *the impugned SCN*) whereby the petitioner was called upon to show cause why its GST registration not be cancelled. The petitioner also impugns an order dated 02.04.2024 (hereafter *the impugned cancellation order*), cancelling the petitioner's GST registration pursuant to the impugned SCN.
4. The petitioner had filed an application seeking revocation of the cancellation order dated 02.04.2024. Pursuant to the said application, the respondent had issued a Show Cause Notice dated 19.04.2024 (hereafter *the*



SCN dated 19.04.2024) calling upon the petitioner to show cause as to why its application for revocation of cancellation order not be rejected.

5. It is important to note the reasons set out in the SCN dated 19.04.2024. The same are reproduced below:

“Reason for revocation of cancellation - Others (Please specify) - i. Your address of Principal Place of business (PPoB) is vague/ incomplete and could not be located. Please submit documentary evidence to prove your existence at PPoB.

ii. You have shown huge turnover of Rs. 24.19 Cr in just two months of your registration with 100% GST payment from ITC amounting to Rs. 4.29 Cr. Please submit documentary evidence substantiating genuineness of transactions, and compliance with Rule 86B of the CGST Rules, 2017.”

6. The petitioner was called upon to respond to the SCN dated 19.04.2024 within a period of seven working days from the date of the SCN, that is, 19.04.2024. The petitioner was also directed to appear before the concerned proper officer on 26.04.2024 at 15:00.

7. The petitioner neither responded to the SCN dated 19.04.2024 nor appeared before the concerned proper officer on the appointed date and time. Accordingly, the petitioner’s application for revocation of the impugned cancellation order was rejected by an order dated 01.05.2024. This order is also impugned in the present petition.

8. The learned counsel appearing for the petitioner submits that the petitioner may be given another opportunity to respond to the allegations on the basis of which the petitioner’s GST registration has been cancelled.

9. It is seen that the impugned SCN, whereby the petitioner was called upon to show cause why its GST registration not be cancelled, did not set



out any intelligible reasons. It merely reproduced the provisions of Section 29(2)(e) of the Central Goods and Services Tax Act, 2017 (hereafter *the CGST Act*)/Delhi Goods and Services Tax Act, 2017 (hereafter *the DGST Act*). The said provision enables the proper officer to cancel the taxpayer's GST registration if it is obtained by means of fraud, wilful misstatement or suppression of facts.

10. The impugned SCN did not indicate any alleged fraud or mention any statement, which is alleged to be a wilful misstatement. It also did not set out any facts, which are alleged to have been suppressed by the petitioner.

11. In view of the above, we find merit in the petitioner's contention that the impugned cancellation order was passed in violation of the principles of natural justice.

12. Having stated above, it is noticed that the SCN dated 19.04.2024, which was passed pursuant to the petitioner's application for revocation of the impugned cancellation order, clearly sets out two reasons for rejecting the said application and for sustaining the impugned cancellation order. The first being that, the petitioner's address of its principal place of business was vague/incomplete and could not be located. And the second was that, the petitioner had shown huge turnover within a period of two months and the entire GST was paid by availing input tax credit (hereafter *ITC*). The proper officer questioned the genuineness of the said transaction and called upon the petitioner to furnish the details of the same.

13. As noted above, the learned counsel for the petitioner has confined the present petition to seeking an opportunity to respond to the said allegations. Thus, notwithstanding that the impugned cancellation order is liable to be set aside on falling foul of the principles of natural justice, we do not



consider it apposite to set aside that order. But we set aside the order dated 01.05.2024 whereby the petitioner's application for revocation of the impugned cancellation order was rejected. This is to enable the petitioner to respond to the allegations in the SCN dated 19.04.2024 on the basis of which the impugned cancellation order was sustained.

14. The petitioner is at liberty to respond to the SCN dated 19.04.2024 within a period of two weeks from date. The proper officer shall consider the said reply and pass an appropriate order after affording an opportunity to the petitioner to be heard.

15. The present petition is disposed of in the above terms. The pending application is also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 06, 2024

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