



2024:DHC:6829-DB



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

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Date of Decision : 06.09.2024

+ **W.P.(C) 12506/2024**

**M/S CHAUHAN CONSTRUCTION CO. THROUGH
ITS PROP. RAJESH CHAUHAN**

.....Petitioner

Through: Mr Vineet Bhatia, Advocate.

versus

COMMISSIONER OF DGST AND ANR.

.....Respondents

Through: Mr Aviskar Singhvi, ASC, Mr Vivek
Kr Singh, Mr Naved Ahmed and Mr
Shubham Kumar, 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 being aggrieved by the cancellation of its Goods and Services Tax (GST) registration in terms of the order dated 05.04.2021 (hereafter *the impugned cancellation order*). The impugned cancellation order was issued pursuant to the Show Cause Notice dated 26.03.2021 (hereafter *the SCN*).



4. The only reason set out in the SCN reads as under:-

“Issues any invoice or bill without supply of goods and/or services in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilization of input tax credit or refund of tax.”

5. 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 SCN. The petitioner was also put to notice that if it fails to appear for a personal hearing on the appointed date and time, the case would be decided *ex parte*. However, the SCN did not state any appointed date, time or venue for the petitioner to appear for the personal hearing. In addition to the above, the petitioner's GST registration was also suspended with effect from 26.03.2021 in terms of the SCN.

6. The petitioner filed an application dated 19.04.2021 seeking revocation of the impugned cancellation order. Pursuant to the said application, the proper officer issued a Show Cause Notice dated 29.12.2021 proposing to reject the same for the following reasons:-

“Reason for revocation of cancellation - Reason for revocation of cancellation - The reason entered for revocation of cancellation is not appropriate.”

7. The petitioner was also called upon to respond to the said Show Cause Notice dated 29.12.2021 within a period of seven working days. In addition, the petitioner was also put to notice that if he fails to appear for a personal hearing on the appointed date, the petitioner's application for revocation would be decided *ex parte*. However, this notice as well, did not



mention any date, time or venue fixed for affording the opportunity of the personal hearing. Thereafter, by an order dated 10.01.2022, the petitioner's application for revocation of the impugned cancellation order was rejected. The said order dated 10.01.2022 also does not set out any reason for cancelling the petitioner's GST registration. It merely states that the petitioner had not replied to the Show Cause Notice dated 29.12.2021 within the time specified therein.

8. The petitioner appealed against the impugned cancellation order under Section 107 of 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*). However, the said appeal was also rejected on the ground that the petitioner did not appear pursuant to the notice served to the petitioner through the GST portal.

9. It is contended by the learned counsel for the petitioner that the petitioner did not access the portal as his GST was suspended in terms of the SCN on 26.03.2021.

10. The petitioner once again filed an application seeking revocation of the impugned cancellation order. Once again, a Show Cause Notice dated 19.07.2023 was issued to the petitioner proposing to reject the petitioner's application. The reasons set out in the said Show Cause Notice are set out hereunder: -

“Any Supporting Document - Others (Please specify) - Your application is not found admissible as per the notification No.03/31-03-2023. Hence cannot be considered.”



11. The petitioner was called upon to file a reply to the said Show Cause Notice within a period of seven working days from the date of service of the notice. He was also put to notice that if he did not appear for the personal hearing on the appointed date and time, his case would be decided *ex parte*. However, this notice did not mention any appointed date, time and venue for the personal hearing. The petitioner's application dated 03.05.2023 for revocation of the impugned cancellation order was rejected by an order dated 04.08.2023 recording that the petitioner had not responded to the Show Cause Notice dated 19.07.2023.

12. It is clear from the facts as noted above that the impugned cancellation order was passed in violation of the principles of natural justice. The successive applications filed by the petitioner for revocation of the impugned cancellation order were also rejected in violation of the principles of natural justice.

13. The SCN did not mention any intelligible reason. It merely set out the provision that would enable the proper officer to cancel a taxpayer's registration on the ground of violation by the provisions of the CGST Act/DGST Act or the Central Goods and Services Tax Rules, 2017/ Delhi Goods and Services Tax Rules, 2017 leading to wrongful availment or utilization of input tax credit or refund of tax. The SCN is bereft of any particulars, which would provide any clue to the taxpayer as to the reasons for cancellation of the petitioner's GST registration. The SCN also did not specify any venue, date or time for the petitioner to appear for the personal hearing. It is also material to note that although, the SCN did not propose any action for retrospectively cancelling the petitioner's GST registration,



the impugned cancellation order cancelled the petitioner's GST registration from the date when it was granted, that is, with effect from 15.10.2018.

14. It is apparent that the impugned cancellation order is void as it was passed in violation of the principles of natural justice. First, the petitioner was not provided any intelligible reasons for proposing to cancel its GST registration and also was not afforded an opportunity of being personally heard. Additionally, there was no proposed action for cancelling the petitioner's GST registration with retrospective effect. The impugned cancellation order is also not informed by any reason as it does not set out any reason for cancelling the petitioner's GST registration.

15. In view of the above, the impugned cancellation order and the SCN are liable to be set aside.

16. It is also apparent that the petitioner's subsequent applications seeking revocation of the impugned cancellation order were also rejected in violation of the principles of natural justice. The Show Cause Notice dated 29.12.2021 does not set out any reasons for proposing to cancel the petitioner's GST registration. It is difficult to comprehend the reasons for proposing to reject the said application.

17. In view of the above, we consider it apposite to allow the present petition. The impugned cancellation order and the SCN are set aside. The respondents are directed to forthwith restore the petitioner's GST registration. The petitioner shall file his GST returns, which are due within thirty days and also pay the tax along with interest and penalty, if any.



18. It is clarified that this order will not preclude the respondents from initiating any fresh action against the petitioner for any statutory violation or for recovery of any dues, in accordance with law.

19. The petition is disposed of in the aforesaid terms. The pending applications are also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 06, 2024

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Click here to check corrigendum, if any