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

% *Date of Decision : 10.09.2024*

\+ **W.P.(C) 12614/2024 & CM APPL. 52423/2024**

D K FRIEGHT CARRIER PROPRIETOR DEEPAK KUMAR
.....Petitioner

Through: Mr Surender Kumar Sharma and Ms Nikita Jangir, Advocates.

versus

UNION OF INDIA & ORS.
.....Respondents

Through: Mr Aakarsh Srivastava, SC and Mr Vaibhav Gupta and Mr Anand Pandey, Advocates for R2 to R5.

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,* praying that directions be issued to the respondents to restore his Goods and Services Tax Identification Number (GSTIN): 07AOJPK3213Q1ZN.

2. The petitioner was registered under the provisions of the Central Goods and Services Tax Act, 2017 / Delhi Goods and Services Tax Act, 2017 (hereafter *the CGST Act / DGST Act*) with effect from 12.07.2017.

3. The petitioner disclosed his principal place of business as House No.19, Naharpur, Sector-7, Rohini, North West District, Delhi – 110085.

The petitioner claims that he had changed the said address with effect from 01.06.2023 from House No.19, Naharpur, Sector-7, Rohini, North West District, Delhi – 110085 to House No.210-211, Second Floor, Pocket-20, Sector-24, Rohini, Delhi – 110085. He states that, accordingly, he filed an application on 03.06.2023 for change of the address of his principal place of business and sought an amendment in his GST registration records to the said effect.

4. On 15.06.2023, the Anti Evasion Team of the respondents conducted the physical inspection at the petitioner's principal place of business as per their record – House No.19, Naharpur, Sector-7, Rohini, North West District, Delhi. The petitioner was not found at the said place and the same was communicated to the concerned proper officer. Pursuant to the said information, the proper officer issued the Show Cause Notice dated 26.06.2023 (hereafter *the SCN*) and called upon the petitioner to show cause as to why its GST registration not be cancelled. 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 and was also directed to appear before the proper officer on 03.07.2023 at 02.49 PM. Additionally, the petitioner's GST registration was suspended from the date of the issuance of the SCN, that is, with effect from 26.06.2023.

5. In the meanwhile, the petitioner's application seeking amendment of his GST registration record was also rejected by an order dated 28.06.2023. The reasons set out in the said order dated 28.06.2023 rejecting the petitioner's application for amendment of his GST registration (change of address) is set out below: -

> "The taxpayer requested for amendment in the address of Principal Place of Business with incomplete information/address. Hence, the amendment request may be rejected. The taxpayer may filed new amendment request with complete address/information."

6. The petitioner did not make another application for change of the address.

7. The petitioner's GST registration was cancelled pursuant to the SCN with retrospective effect. However, the said cancellation order has not been placed on record.

8. The petitioner filed an application dated 17.08.2023, seeking revocation of the cancellation order which was also rejected by an order dated 31.01.2024. The reasons set out in the order dated 31.01.2024 are extracted below: -

> "The visit made by the department officer on 15.06.2023 and the taxpayer was not found at their registered Principal place of business. The statement of taxpayer was recorded dated 17.07.2023. In response to query, the taxpayer replied on 22.01.2024 that the statement as alleged taken by the officers was not with free will and consent but under pressure and the same is not admissible. Hence, the allegation made after about 6 month is not correct and not acceptable. As the taxpayer is not working on the registered principal place of business during the present days. Taxpayer has violated section 28 of the CGST Act,2017 by non filing of amendment of GST registration as the time of change of principal place of business."

9. Aggrieved by the said order dated 31.01.2024, the petitioner filed an

appeal under Section 107 of the CGST Act / the DGST Act. The said appeal was rejected by an order dated 06.08.2024. The reasons for rejecting the appeal are set out in paragraph nos. 6 & 7 of the said Order-in-Appeal dated 06.08.2024, which are reproduced below: -

> "6. I find that though the appellant stated that they shifted to new premises on 01.06.2023 and applied for amendment on 03.06.2023 but no document to substantiate the said submissions has been submitted at appellate stage, in absence of which, the said submissions appear to be vague in nature. The appellant has submitted copy of order of rejection of application for amendment which is dated 28.06.2023 wherein after examining the appellant's reply dated 03.06.2023, their amendment application was rejected for the reasons of incomplete information/address and it was advised to re-file the amendment application with complete address/information. However, there is nothing on record that they re-applied for amendment in their registration. Further, I find that the adjudicating authority has mentioned in the impugned order about the appellant's reply dated 22.01.2024, however, the same is also not on record. The adjudicating authority, in the impugned order, has observed that the appellant has violated section 28 of CGST Act, 2017. I find that the said section deals with the process of amendment in the registration for any change. As the appellant has not re-filed the amendment application after rejection of their initial amendment application, I find that the adjudicating authority has rightly observed about the said contravention.
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> 7. In view of the above, I find that the adjudicating authority has rightly rejected the appellant's revocation application for the grounds mentioned therein. The said impugned order passed by the

> adjudicating authority is legal and maintainable in law and I do not find any reason to interfere with the said impugned order."

10. It is apparent that the petitioner's application for revocation of the cancellation order was rejected on the ground that he had not submitted any document to substantiate that he had shifted the principal place of business on 01.06.2023. This is the central controversy in the present petition.

11. The learned counsel appearing for the respondents referred to a letter dated 10.08.2023 received from Anti Evasion Branch – a copy of which was handed over in Court. The same indicates that the petitioner's statement was recorded on 17.07.2023. In his statement, the petitioner stated that he had left his registered principal place of business, House No.19, Naharpur, Sector 7, Rohini, North West District, Delhi – 110085, 5-6 years ago. He stated that he had shifted to another address of house bearing No.192, Third Floor, Naharpur, Sector 7, Rohini, North West District, Delhi – 110085 and 5-6 months ago shifted to the current address, that is, Flat No.210-211, Second Floor, Pocket-20, Sector 24, Rohini, Delhi -110085. He had also claimed that he filed an amendment application on 03.06.2023 for reflecting the change of address.

12. The aforementioned letter dated 10.08.2023 also noted that the GST portal was reflecting the date of the filing of the said application as 20.06.2023 and not 03.06.2023, as claimed by the petitioner.

13. The learned counsel for the respondents submit that the petitioner had filed the said application for amendment of its GST registration to reflect his current address after the physical verification had been conducted by the

officials of the Anti-Evasion Branch. He submits that the petitioner's statement as recorded on 17.07.2023 also clearly establishes that the petitioner was not functioning at his principal place of business at the time of securing his GST registration. However, the learned counsel for the petitioner counters the same. He contends that the statement of the petitioner has been recorded under coercion and the petitioner was carrying on his business from House No.19, Naharpur, Sector 7, Rohini, North West District, Delhi – 110085 and had thereafter, shifted to the current address with effect from 01.06.2023 at Flat No.210-211, Second Floor, Pocket-20, Sector 24, Rohini, Delhi -110085. He had also produced the documents including the Aadhaar Card, PAN Card and the first two pages of the documents dated 01.10.2022 for purchase of the said premises.

14. There is a dispute as to the date on which the petitioner had filed the application for amendment of his GST registration. The order dated 28.06.2023, which reflects the system generated date of the said application, reflects the same as dated 03.06.2023.

15. We are of the view that the controversy as to whether the petitioner was in existence is required to be addressed by considering the petitioner's document of being in existence at its principal place of business prior to shifting to the new address. As far as the petitioner's current address is concerned, the petitioner has provided the documents to substantiate that he is in existence including the photograph of the premises bearing the sign board of D K Freight Carrier as well as indicating his name and mobile phone number.

16. As noted above, the appellate authority has rejected the petitioner's appeal on the ground that he had not provided sufficient documents as to his principal place of business. Insofar as documents relating to the current address of the petitioner is concerned, the petitioner has provided the same.

17. In view of the above, we consider it apposite to remand the matter to the appellate authority to consider the matter afresh. The petitioner may file all documents on which it seeks to rely upon to show that he was carrying on the business from the declared principal place of business till he shifted to the current address. Let the aforesaid documents be filed by the petitioner within a period of two weeks from date. The appellate authority shall consider the same and pass a fresh order after considering the same and affording the petitioner an opportunity of being heard.

18. All rights and contentions of the petitioner are reserved.

19. The petition is allowed in the aforesaid terms. Pending application also stands disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 10, 2024

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Click here to check corrigendum, if any