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

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Date of Decision: 09.09.2024+ **W.P.(C) 12624/2024 & CM APPL. 52441/2024**

M/S KUNDAN TRADING COMPANY

.....Petitioner

Through: Mr Pranay Jain and Mr. Karan Singh,
Advocates.

versus

PR. COMMISSIONER OF DEPARTMENT OF TRADE &

TAXES, GOVERNMENT OF NCT OF DELHIRespondent

Through: Mr.Avishkar Singhvi, ASC, Mr
Subham Kumar, Mr Vivek Kumar
and Mr Naved Ahemd, 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 appearing for the respondent accepts notice.
3. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to the respondent to cancel its GST registration with effect from 14.04.2024.
4. The petitioner was registered under the Central Goods and Services Tax Act, 2017/ Delhi Goods and Services Tax Act, 2017 (hereafter *the CGST Act/ the DGST Act*) with effect from 03.09.2023 and was assigned the Goods and Services Tax Identification Number (GSTIN):



07CIBPT9836L2ZG.

5. The petitioner claims that it has closed down its business with effect from 14.04.2024 and, therefore, applied for cancellation of its GST registration with effect from 01.04.2014 by an application dated 14.04.2024. Pursuant to the said application, the notice dated 13.05.2024 was issued by the proper officer seeking following information/ clarification/ documents relating to the application for cancellation: -

“1 Cancellation Details - Date from which registration is to be cancelled - Date from Registration to be cancelled is Incorrect. Enter correct date

2 Cancellation Details - Others (Please specify) - kindly provide copy of balance sheet, P&L statement, 26AS/TDS Statement input and sale register, stock register, Reconciliation Statement of input and output GST, Also file all GST returns, Provide identity proof and address proof of Proprietor/Partner/Director, Provide documents of PPOB (Principal Place of Business). As PPOB is rented/consent provide permanent address with documents in future column with working mobile and email address.”

6. The petitioner was directed to submit the reply to the aforesaid notice on or before 22.05.2024. Further, the petitioner was put to notice that in case the petitioner fails to submit the response before the stipulated date, the application for cancellation of the petitioner's GST registration would be rejected.

7. The petitioner replied to the aforesaid notice on 17.05.2024 along with all the relevant documents including a copy of the Aadhar card, Pan



Card, contact information, and email address.

8. It is well settled that cancellation of the tax payer's registration does not absolve the tax payer from being held accountable for any statutory violations prior to the date of the cancellation. It is also clarified that in certain cases, the proper officer may proceed to pass orders under Section 29 of the CGST Act and DGST Act for cancellation of the taxpayer's GST registration with retrospective effect, if there are reasons do so.

9. The learned counsel for the respondent rightly points out that in cases where the tax prayer has been found to be non-existent, the said action may be warranted.

10. The Central Board of Indirect Taxes and Customs has also issued circular dated 26.10.2018, *inter alia*, clarifying as under: -

“5. Since the cancellation of registration has no effect on the liability of the taxpayer for any acts of commission/omission committed before or after the date of cancellation, the proper officer should accept all such applications within a period of 30 days from the date of filing the application, except in the following circumstances:

- a) The application in **FORM GST REG-16** is incomplete, i.e. where all the relevant particulars, as detailed in para 4 above, have not been entered;
- b) In case of transfer, merger or amalgamation of business, the new entity in which the applicant proposes to amalgamate or merge has not got registered with the tax authority before submission of the application for cancellation.

In all cases other than those listed at (a) and (b) above, the application for cancellation of registration should be immediately accepted by the



proper officer and the order for cancellation should be issued in **FORM GST REG-19** with the effective date of cancellation being the same as the date from which the applicant has sought cancellation in **FORM GST REG-16**. In any case the effective date cannot be a date earlier to the date of application for the same.”

11. In view of above, we consider it apposite to direct the respondent to consider the application of the petitioner seeking cancellation of its GST registration bearing in mind that the cancellation ought not to be withheld on account of any assessment proceedings or any proceedings for recovery of any statutory dues from the tax payers. It is so directed.

12. The petitioner shall ensure that the address for future correspondence is filed with the proper officer along with KYC documents, if not already filed.

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

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 09, 2024

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Click here to check corrigendum, if any