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

\+ W.P.(C) 12676/2024

SEEMA JAIN .....Petitioner

Through: Mr. Maneesh Jain, Mr. Prince Mohan Sinha, Mr. Sunjeev Batra and Mr. Aniket Krishatrey, Advs.

versus

COMMISSIONER OF GST & ANR. .....Respondents

Through: Mr. Avishkar Singhvi, ASC along with Mr. Vivek Kr. Singh, Mr. Naved Ahmed and Mr. Shubham Kumar, Advs.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE SACHIN DATTA

O R D E R

% 10.09.2024

1. Issue notice.

2. Learned counsel for the respondents accepts notice.

3. The petitioner has filed the present petition impugning an order dated 01.05.2023 (hereafter *the impugned order*), whereby the petitioner's GST registration was cancelled with retrospective effect from 12.06.2018.

4. The petitioner was registered under the Central Goods and Services Tax Act, 2017 (hereafter *the CGST Act*)/ the Delhi Goods and Services Tax Act, 2017 (hereafter *the DGST Act*) with effect from 12.06.2018.

5. The petitioner claims that she was engaged in the business of trading of Paper, Paper Board, Polymers of ethylene, Trunks and various other products. She also claims that she has been regularly filing her returns with the GST department and had correctly availed of the input tax credit (ITC),

as reflected on her GST portal. The petitioner had filed the last returns for the month of September 2021, on 20.10.2021.

6. The petitioner contends that she was completely dependent on her accountant for filing of the returns as the registered e-mail and the phone number also belongs to her accountant.

7. The learned counsel for the petitioner fairly states that the petitioner was remiss in not filing her returns after September, 2021.

8. The petitioner had received a Show Cause Notice dated 04.05.2022 (hereafter *the SCN*), proposing to cancel the petitioner's GST registration for the reason that the petitioner had failed to furnish the returns for a continuous period of six months. The petitioner was called upon to respond to the SCN within a period of thirty days from the date of service of the said notice and also appear before the concerned proper officer on 03.06.2022 at 1100 hrs. Additionally, the petitioner's GST registration was suspended from the date of issuance of the SCN.

9. The petitioner did not respond to the SCN. Consequently, the petitioner's GST registration was cancelled by the impugned order.

10. The impugned order does not reflect any reason for cancelling the petitioner's GST registration except referring to the SCN.

11. The impugned order also indicates that no tax or any other amount has been determined as due from the petitioner.

12. It is material to note that the SCN did not mention any proposal to cancel the petitioner's GST registration with retrospective effect. The impugned order is also silent as to why the petitioner's GST registration has been cancelled with effect from 12.06.2018 – the date with effect from which the petitioner was registered with the GST authorities.

13. Section 29 (2) of the CGST Act/DGST Act enables the proper officer to cancel a taxpayer's GST registration including with retrospective effect, if any of the conditions as set out in the said provision are satisfied. There is no doubt that the proper officer is empowered to cancel the taxpayer's GST registration with retrospective effect. However, the said decision is required to be informed by reason. Such orders cannot be passed whimsically or arbitrarily.

14. In the present case, the impugned order does not reflect any reason as to why the petitioner's GST registration was cancelled with effect from 12.06.2018. Thus, the impugned order is liable to be set aside on this ground alone.

15. As is apparent from the above, the petitioner's GST registration was cancelled as the petitioner did not file her returns for a continuous period of more than six months. However, this does not provide any reason to cancel the petitioner's GST registration for the period during which the petitioner had filed her GST returns.

16. In view of the above, we consider it apposite to set aside the impugned order.

17. The respondents are directed to restore the petitioner's GST registration forthwith. The petitioner may file GST returns within a period of 30 days, as provided under Rule 23 of the Central Goods and Services Tax Rules, 2017 /Delhi Goods and Services Tax Rules, 2017.

18. It is clarified that this order will not preclude the respondents from initiating any action for non-compliance of the statutory provisions or for recovery of any dues as may be payable by the petitioner.

19. This order will also not preclude the respondents from initiating fresh

proceedings for cancellation of the petitioner's GST registration, including with retrospective effect, if the same is warranted, *albeit*, in accordance with law.

20. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 10, 2024/cl