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

\+ W.P.(C) 12943/2024 CM APPL. 54021/2024

SAKSHI MARKFIN PRIVATE LIMITED .....Petitioner

Through: Mr. Shivashish Karnani, Mr. Akshay Grover and Mr. Sanjay Jain, Advocates.

versus

COMMISSIONER OF DELHI GOODS AND SERVICES TAX AND ANR. .....Respondents

Through: Mr. Karn Bhardwaj, ASC for GNCTD alongwith Mr. Vishal Chanda, Advocate.

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

ORDER

% **17.09.2024**

1. Issue notice.

2. Learned counsel for the respondent accepts notice.

3. The petitioner has filed the present petition, *inter alia*, impugning an order dated 13.06.2024 (hereafter *the impugned order*) whereby the petitioner's GST registration was cancelled with retrospective effect from 01.07.2017. The reasons set out in the impugned order for cancelling the petitioner's GST registration read as under:-

> "This has reference to show cause notice issued dated 22/07/2022.
>
> Whereas no reply to the show cause notice has been submitted;
>
> and whereas, the undersigned based on record available with this office is of the opinion that your registration is liable to be cancelled for the following reason(s):

Rule 21(a)-person does not conduct any business from declared place of business

As per GSTI field visit report, the firm found non-existing at the registered address."

4. It is apparent from the above that the petitioner's GST registration was cancelled on the basis of a field visit report submitted by the Goods and Service Tax Inspector (GSTI) to the effect the petitioner was not existing at its registered address.

5. The impugned order was passed pursuant to a Show Cause Notice dated 22.07.2022 (hereafter *impugned SCN*) proposing to cancel the petitioner's GST registration on the basis of aforesaid GSTI field visit report. It alleged that the petitioner was found to be non-existent at its registered place of business. The petitioner was called upon to furnish a reply to the impugned SCN within a period of seven working days after receipt of the said notice and was also directed to appear before the proper officer for personal hearing on the appointed date and time.

6. The petitioner was also put to notice that if he did not file a reply or appear before the proper officer at the appointed date and time, the case would be decided *ex parte* on the basis of the available record and on merits. Additionally, the petitioner's GST registration was suspended with effect from 22.07.2022. It is the petitioner's case that he has not received a copy of the GSTI field visit report on the basis of which the impugned SCN and the impugned order are founded.

7. It is also material to note that the impugned SCN did not propose cancellation of the petitioner's GST registration with retrospective effect. Thus, the petitioner had no opportunity to respond to any such action.

Although, the impugned SCN had mentioned that it required the petitioner to appear before the concerned officer at the appointed date or time, the said impugned SCN did not mention any such date or time.

8. There is merit in the contention of the petitioner that it was not afforded a full opportunity to respond to the impugned SCN and to show cause why its GST registration should not be cancelled with retrospective effect. It is material to note that the impugned order does not indicate any specific reason for cancelling the petitioner's GST registration *ab initio.*

9. In the given circumstances, we consider it apposite to grant the petitioner another opportunity to respond to the said action. The impugned order is set aside. The respondents are directed to furnish a copy of the GSTI field visit report to the petitioner. The petitioner is at liberty to file a reply/response to the said impugned SCN, on the assumption that it proposes cancellation of the petitioner's GST registration with retrospective effect, within a period of two weeks thereafter. The proper officer shall afford the petitioner an opportunity to be heard and pass an appropriate order.

10. The present petition stands disposed of in the aforesaid terms.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 17, 2024

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