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

\+ W.P.(C) 14027/2024

M/S BABA INTERNATIONAL THROUGH PARTNER SH RIYAZ KHAN .....Petitioner

Through: Ms. Priyanka Goel, Adv.

versus

PR COMMISSIONER CGST DELHI, NORTH COMMISSIONERATE DELHI .....Respondent

Through: Mr. Atul Tripathi, SSC wit Mr. V.K. Atri, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **07.10.2024**

1. The writ petitioner seeks to assail the cancellation of its GST registration in terms of an order dated 29 May 2024. The aforesaid order was preceded by a show cause notice dated 14 May 2024 and in which it was alleged that the petitioner had contravened Section 29(2)(e) of the CGST Act, 2017 by having obtained the registration by practice of fraud, willful misstatement and suppression of facts.

2. Apart from this general recital which appears in the show cause notice, no further details were provided. Ultimately, the impugned final order of 29 May 2024 came to be passed and which reads as follows:-

"**Form GST REG-19**

[See rule 22 (3)]

Reference Number: ZA070524243901M **Date:** 29/05/2024

To
BABA INTERNATIONAL
803,Third Floor,Pan Mandi,New Delhi,Central Delhi,Delhi,110006
GSTIN/ UIN :07AASFB1417E1ZO
Application Reference Number (ARN): AA070524045240N
Date:

Order for Cancellation of Registration

This has reference to show cause notice issued dated 14/05/2024.

The effective date of cancellation of your registration is 31/05/2018.

3. It may be noted that a registered person furnishing return under sub-section (1) of section 39 of the CGST Act, 2017 is required to furnish a final return in FORM GSTR-10 within three months of the date of this order.

4. You are required to furnish all your pending returns.

5. It may be noted that the cancellation of registration shall not affect the liability to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

Place: RANGE - 21

Date: 29/05/2024

Shyam Nandan Kumar
Superintendent
Ward 30"

3. As is manifest from a bare perusal of that order, the same fails to record or assign any reasons. Fraud, willful misstatement and suppression of fact have a well-known connotation in law. They are not mere incantations which would warrant adverse action absent any details to support those allegations.

4. Quite apart from the above, the effective date of cancellation has been prescribed to be 31 May 2018. It becomes relevant to note that even the original show cause notice had not placed the petitioner on notice of a proposed retrospective cancellation. We in this regard take note of our decision in **Riddhi Siddhi Enterprises vs. Commissioner of Goods and Services Tax (CGST), South Delhi & Anr.** [W.P.C 8061/2024 dated 25 September 2024] where we had held that the mere existence of a power to retrospectively cancel would not

justify such a recourse being taken except for valid reasons which are duly disclosed and recorded. In view of the aforesaid, we find ourselves unable to sustain the order impugned. We also take note of prayer (d) which is made in the writ petition, and which essentially seeks cancellation from the date from when the show cause notice came to be issued. It is this prayer which was reiterated by learned counsel appearing for the writ petitioner before us.

5. Although learned counsel appearing for the respondent had sought to justify the impugned action by referring to a separate show cause notice which is alleged to have been issued, we find that the allegations leveled in that document do not stand mirrored in the show cause notice or the order which ultimately proceeded to cancel the registration of the writ petitioner.

6. In view of the above, we allow the instant writ petition and set aside the order dated 29 May 2024 insofar as it purports to take effect from 31 May 2018. The order shall be effective from 14 May 2024. Any other allegation which merits further inquiry or action under the Act is left open to be pursued independently and in accordance with law.

7. All rights and contentions of respective parties in respect of such proposed action are kept open.

YASHWANT VARMA, J.

RAVINDER DUDEJA, J.

OCTOBER 7, 2024/*neha*