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

\+ W.P.(C) 14631/2024

SANDEEP KUMAR .....Petitioner

Through: Mr. Kanhaiya Singhal, Mr. Ujwal Ghai, Mr. Udit Bakshi & Mr. Bhuvesh Bhala, Advs.

versus

COMMISSIONER, DEPARTMENT OF TRADE AND TAXES, GOVT. OF NCT OF DELHI .....Respondent

Through: Mr. Rajeev Aggarwal, ASC along with Mr. Shubham Goel, Adv.

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

O R D E R

% **21.10.2024**

CM APPL. 61431/2024 (Ex.)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 14631/2024

1. The writ petitioner impugns the order dated 12 September 2024 pursuant to which its application for cancellation of registration came to be rejected as also a **Show Cause Notice**[1] of the same date issued by the Sales Tax Officer.

2. The order proceeds to reject an application which the petitioner had made seeking cancellation of its registration under the **Central**

[1] SCN

Goods and Services Act, 2017[2]. That application had been made way back on 22 August 2024 and also appears to have been preceded by the respondents undertaking a field survey on 01 September 2024.

3. The SCN came to be issued on the same date as the order of rejection, and alleges that the petitioner was in breach of Rule 21(a) of the **Central Goods and Services Tax Rules, 2017**[3] since it had been found in the course of that field visit that he had not conducted any business from the declared place.

4. We find that the final order rejecting the voluntary application for cancellation made by petitioner proceeds on the premise as if the same was a reply to the SCN which had come to be issued. This clearly is factually incorrect. Even otherwise, the order fails to assign any reason which would have merited the application seeking cancellation of registration not being examined. The order is thus rendered unsustainable on the aforesaid short ground alone.

5. Insofar as the SCN is concerned, suffice it to note that the same came to be issued after the petitioner had already voluntarily applied for cancellation of its registration. Learned counsel of the petitioner, draws our attention to the Circular of the respondents itself dated 26 October 2018 and in terms of which it is contended that the petitioner was statutorily obliged to shut down its place of business before applying for cancellation of registration.

6. In view of the aforesaid inconsistency in the stand which has been taken by the respondents, it becomes evident that the SCN impugned herein would not sustain.

7. Faced with the aforesaid tentative conclusions, Mr. Aggarwal,

[2] Act
[3] Rules

learned counsel for the respondent, submitted that rather than the petition being retained on the board of this Court, the ends of justice would warrant the impugned order being set aside with liberty to the respondents to proceed in the matter afresh.

8. Accordingly, and for all the aforesaid reasons, we quash the order of cancellation dated 12 September 2024 as well as the SCN of even date.

9. The application of the petitioner dated 22 August 2024 for cancellation of registration may be examined afresh and in accordance with law. All rights and contentions of respective parties, including those of the respondents who have alleged a purported violation of Rule 21(a) are kept open to be examined in those proceedings.

10. The writ petition shall stand disposed of on the above terms.

YASHWANT VARMA, J

RAVINDER DUDEJA, J

OCTOBER 21, 2024/RW