$~53

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

\+ W.P.(C) 15695/2024 & CM APPL. 65914/2024 (Interim Stay)

S.K SALES .....Petitioner

Through: Mr. Gaurav Arora, Mr. S. Singh, Mr. Mudit Jain, Mr. Chirag Kher, Mr. Rudraksh Nakra, Advs.

versus

PRINCIPAL COMMISSIONER OF CENTRAL GOODS AND SERVICES TAX DEPARTMENT & ANR. .....Respondents

Through: Mr. Aakarsh Srivastava, Standing Counsel

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **19.11.2024**

CM APPL. 65915/2024 (Ex.)

Exemption is allowed, subject to all just exceptions.

The application is disposed of.

W.P.(C) 15695/2024 & CM APPL. 65914/2024 (Interim Stay)

1. This writ petition impugns the order dated 28 December 2023 pursuant to which the Goods & Services Tax [‘**GST**’] registration of the writ petitioner has come to be cancelled with retrospective effect from 25 February 2018. The Show Cause Notice [‘**SCN**’] of 05 December 2023 had laid the following allegations against the writ petitioner:-

> “1 Non compliance of any specified provisions in the GST Act or the Rules made thereunder as may be prescribed.”

2. The SCN proceedings ultimately culminated in the passing of the impugned order dated 28 December 2023 and which is extracted herein below:-

> "**Order for Cancellation of Registration**
>
> This has reference to show cause notice issued dated 05/12/2023.
>
> The effective date of cancellation of your registration is 25/02/2018.
>
> 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."

3. As it is manifest from a reading of the SCN as well as the final order impugned herein, it is apparent that the proceedings have been drawn on a bald allegation of non-compliance of "*any specified provisions*" of the Central Goods & Services Tax Act, 2017 ['**CGST Act**'].

4. The SCN is wholly unreasoned and fails to allude to any material on the basis of which an opinion may have been formed that a particular provision of the CGST Act had been infracted and that the registration is liable to be cancelled. The final order suffers from the same mistakes and fallacies. We, consequently, find ourselves unable to sustain the impugned action.

5. We accordingly allow the present writ petition and quash the impugned cancellation order dated 28 December 2023.

6. We, however, accord liberty to the respondents to supplement the original SCN dated 05 December 2023 and apprise the petitioner of the material on the basis of which the action is sought to be initiated. In case of any such further material being provided to the writ petitioner, the respondents shall accord them an opportunity of hearing as well as a right to respond to those allegations. The SCN proceedings may thereafter be concluded and disposed of in accordance with law.

7. All rights and contentions of respective parties on merits are kept open.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

NOVEMBER 19, 2024/sp