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

\+ W.P.(C) 16807/2024

M/S BHARAT TRADERS .....Petitioner

Through: Mr. Pranay Jain and Mr. Karan Singh, Advs.

versus

COMMISSIONER OF CENTRAL TAX APPEALS-1, DELHI .....Respondent

Through: Mr. Anurag Ojha, SSC with Mr. Subham Kumar and Mr. Dipak Raj, Advs.

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

O R D E R

% **05.12.2024**

CM APPL. 71111/2024 (Ex.)

Allowed, subject to all just exceptions.

The application is disposed of.

W.P.(C) 16807/2024

1. The writ petitioner seeks to impugn the Order-in-Appeal dated 28 August 2024 and which has affirmed the principal order of 02 August 2023, pursuant to which the **Goods and Services Tax**[1] registration of the petitioner has come to be cancelled.

2. As is manifest from a reading of the **Show Cause Notice**[2] dated 26 July 2023, we find that the respondent had alleged a violation of Section 29(2)(e) of the **Central Goods and Service Tax Act, 2017**[3] by asserting that the petitioner appeared to have obtained registration

[1] GST
[2] SCN
[3] CGST ACT

by means of "*fraud, wilful-misstatement and suppression of facts*". It was this SCN which ultimately culminated in the passing of the final order on 02 August 2023.

3. It is thereafter and before the Appellate Authority that the petitioner appears to have produced fresh documentation including a rent agreement of 19 March 2024. It is in the aforesaid context that the Appellate Authority has observed as follows:-

> "5.6 I find that the appellant submitted the following documents alongwith appeal viz. Aadhar card, PAN card, NOC from Gunjan Nagpal and Anshul Dhingra, copy of Rent Agreement executed on 19.03.2024. I have verified from GST portal and found that the appellant has filed return till June 2023. The appellant submitted Bank Statement, Sale and Purchase Invoices eway bills, Sale and Purchase Ledgers during the course of personal hearing. The appellant has also undertaken to the effect that "after restoration of my GST registration, I will pay all the dues, liabilities i.e. tax fee and penalty if any arises".
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> 5.7 For commencement of business, certain documents, such as PAN Card, Aadhar Card, Bank account details and address proof are required to be submitted at the time of obtaining a GST registration. From the documents submitted by the appellant, I find that Rent Agreement has been executed on 19.03.2024 and NOC from the owners of the premises has been obtained on 19.03.2024 i.e. after cancellation of registration. Since the basic requirement of documents have not been complied with, I fully agree with the Adjudicating Authority's observation for denying the plea of the appellant. The submission of Rent Agreement and NOC now, at the stage of Appeal holds no relevance."

4. Undisputedly, the execution of the rent agreement on 19 March 2024 would have no bearing on the validity of the original orders which had come to be passed on 02 August 2023. Presently, it is unclear from the record as to what were the essential reasons underlying the original action of cancellation and the allegation of fraud, wilful misstatement and suppression of facts being laid.

5. However, and since the petitioner alludes to a fresh rental agreement, it would have perhaps been a case where the principal place of business had been changed.

6. Since that appears to be the circumstance which led to the filing of the appeal, we accord liberty to the writ petitioner to move the respondents for grant of registration afresh. Any such application that may be made shall be considered and disposed of in accordance with law and bearing in mind the provisions contained in the Circular No. 95/14/2019-GST dated 28 March 2019 issued by the Central Board of Indirect Taxes and Customs.

7. The application that may be made in this regard shall be examined notwithstanding the Order-in-Appeal dated 28 August 2024.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

DECEMBER 05, 2024/DR