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

\+ W.P.(C) 17460/2024

ARAN PROJECTS PRIVATE LIMITED .....Petitioner
Through: Mr. Nitin Gulati, Adv.

versus

ASSISTANT COMMISSIONER/AVATO, WARD-84,STATE GOODS AND SERVICE TAX DEPARTMENT .....Respondent
Through: Ms. Urvi Mohan, Adv.

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

O R D E R

% **18.12.2024**

CM APPL. 74257/2024 (Ex.)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 17460/2024

1. The writ petitioner seeks to impugn an order dated 10 August 2022 pursuant to which its Goods & Services Tax registration has been cancelled with retrospective effect from 01 July 2017.

2. Quite apart from the laches which beset the writ petition, we find that the statute itself does not render the writ petitioner ineligible to apply for registration afresh.

3. We also bear in mind the provisions made in Circular dated 28 March 2019 issued by the Central Board of Indirect Taxes and Customs and which reads thus:

> "**4.** It is hereby instructed that the proper officer may exercise due caution while processing the application for registration submitted by the taxpayers, where the tax payer

> is seeking another registration within the State although he has an existing registration within the said State or his earlier registration has been cancelled. It is clarified that not applying for revocation of cancellation of registration along with the continuance of the conditions specified in clauses (b) and (c) of sub-section (2) of section 29 of the CGST Act shall be deemed to be a "deficiency" within the meaning of sub-rule (2) of rule 9 of the CGST Rules. The proper officer may compare the information pertaining to earlier registrations with the information contained in the present application, the grounds on which the earlier registration(s) were cancelled. The data may be verified on common portal by fetching the details of registration taken on the PAN mentioned in the new application vis-à-vis cancellation of registration obtained on same PAN is displayed on the common portal to both the applicant and the proper officer. Further, if required, information submitted by applicant in S.No.21 of **FORM GST REG-01** regarding details of proprietor, all partner/Karta/Managing Directors and whole time Director/members of Managing Committee of Associations/Board of Trustees etc. may be analysed vis-à-vis any cancelled registration having same details.
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> **5.** While considering the application for registration, the proper officer shall ascertain if the earlier registration was cancelled on account of violation of the provisions of clauses (b) and (c) of sub-section (2) of section 29 of the CGST Act and whether the applicant has applied for revocation of cancellation of registration. If proper officer finds that application for revocation of cancellation of registration has not been filed and the conditions specified in clauses (b) and (c) of sub-section (2) of section 29 of the CGST Act are still continuing, then, the same may be considered as a ground for rejection of application for registration in terms of sub-rule (2) read with sub-rule (4) of rule 9 of CGST Rules. Therefore, it is advised that where the applicant fails to furnish sufficient convincing justification or the proper officer is not satisfied with the clarification, information or documents furnished, then, his application for fresh registration may be considered for rejection."

4. In view of the aforesaid, we accord liberty to the writ petitioner to apply for registration afresh, if so chosen and advised.

5. Any such application that may be made, shall be disposed of in accordance with law and bearing in mind the provisions of the

Circular which we have noticed hereinabove.

6. The challenge to retrospective cancellation is not liable to be countenanced at this belated stage. A writ court would desist from entertaining such stale claims.

7. The writ petition shall stand disposed of on the aforesaid terms.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

DECEMBER 18, 2024

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