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

Date of Decision: 17th April, 2025

\+ **W.P.(C) 2106/2025 & CM APPL. 9972/2025**

VIBHOR MARKETING PVT LTD .....Petitioner

Through: Mr. Puneet Rai, Mr. Sanjay Sharma & Ms. Srishti Sharma, Advs. (M: 9910502001)

versus

SALES TAX OFFICER CLASS II/ AVATO, WARD 83, DELHI & ANR. .....Respondents

Through: Ms. Vaishali Gupta, Adv. for GNCTD.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The petition has been filed challenging the impugned order dated 8th April, 2024 *vide* which a demand of Rs. 9,10,792/- has been raised against the Petitioner. The said order has been passed pursuant to show cause notice (SCN) dated 3rd December, 2023. The ground on which it was issued was that the annual returns in GSTR-9 for the year 2018 were not filed by the Petitioner. The impugned order is challenged *inter alia* on the ground that Petitioner was not provided a proper opportunity to file a reply.

3. In ***W.P.(C) 4816/2025***, which is a petition preferred by the same Petitioner Firm, this Court had taken note of the fact that the GST registration of the Petitioner firm had been cancelled. One of the reasons for the same was that both the Directors of the Petitioner Firm had suffered several medical issues and had passed away in 20th February, 2022 and 8th May, 2025 respectively. Considering the said position and the exigencies that may have

arisen due to the ill health of the Directors, this Court had allowed the writ petition and had directed restoration of the GST registration in the following terms:

> *"6. The Court has considered the matter. The death certificates of Mr. Kailash Chand and Mr. Rajeev Kaushik have been placed on record which show that Mr. Kailash Chand has passed away on 28th February, 2022 and Mr. Rajeev Kaushik passed away on 08th May, 2024. The circumstances explained in the writ do show that both the Directors were suffering from ill health and due to that reason, the reply also may not have been given to the Show Cause Notice dated 8th July, 2022.*
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> *7. The facts given in the petition reveal a difficult case for the Petitioner wherein the family of the late Directors may suffer irreparable damages if the GST registration remains cancelled. Under these circumstances, the GST Department is directed to reopen the GST portal for the Petitioner so that the Petitioner can upload all the relevant documents. A hearing may be granted to the Petitioner and after hearing the Petitioner in respect of the Show Cause Notice dated 08th July, 2022, an appropriate order in accordance with law be passed. The GST Department shall take an empathetic view of the matter considering the ill health of the late Directors.*
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> ***8. Let access to the GST portal be given to the Petitioner within 48 hours. The order pursuant to the Show Cause Notice shall be passed after affording an opportunity of personal hearing to the Petitioner, within a period of three months.****"*

4. As per ld. Counsel for the Petitioner, the SCN was uploaded on the *'Additional Notices Tab'* and was not communicated to the Petitioner. This position is disputed by the ld. Counsel for the Respondents who submits that whenever the SCNs are uploaded text messages and SMS are also sent on the mobile number.

5. Without going into this issue, the Court is of the opinion that since the

main persons who were conducting the business have both passed away and the SCN was issued in the year 2023 which was just around the same period when the Directors were suffering ill-health and had passed away. the Petitioner ought to be given an opportunity to defend itself on merits.

6. Accordingly, as in ***W.P.(C) 4816/2025***, the proceedings initiated *vide* SCN dated 3rd December, 2023 are relegated to the adjudicating authority for the Petitioner to be provided a proper opportunity to be heard on merits. The Petitioner may file a reply to the SCN within 30 days.

7. A personal hearing shall be afforded to the Petitioner as well. The notice of personal hearing, apart from being uploaded on the portal, shall also be communicated to the Petitioner through the Ld. Counsel at the following email address and mobile number:

> ***Mr. Puneet Rai, Adv.***
> ***(M: 9910502001)***
> *Email-puneetraiadocate@gmail.com*

8. The impugned order dated 8th April, 2024 shall stand set aside. After affording the personal hearing, the adjudicating authority shall pass the order in accordance with law. Needless to add, this Court has not examined the merits of the matter.

9. The petition is disposed of in these terms. All pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

APRIL 17, 2025/*dj/Ar.*