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

\+ W.P.(C) 785/2024

M/S TRILOK ENTERPRISES .....Petitioner

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

versus

PRINCIPAL COMMISSIONER OF GOODS AND SERVICE TAX NORTH DELHI .....Respondent

Through: Ms. Neha Malik, Standing Counsel with Mr. Sahil Malik, Advocate.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

O R D E R

% 13.02.2025

1. This writ petition has been preferred seeking the following reliefs:

> "a) issue a writ of mandamus or any other appropriate writ or direction to directing respondent to revoke the cancellation of GST registration of the petitioner or in the alternative cancel it from the date of last return;
>
> b) issue a writ of certiorari or any other appropriate writ or direction to quash and set aside the Order of cancellation dated 03.08.2023 issued by the respondent cancelling the registration of the petitioner.
>
> c) issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the aforesaid facts and circumstances of the case.
>
> d) Also pass any other further order or direction in the facts and circumstances of the present petition."

2. The petitioner is principally aggrieved by the refusal of the respondents to allow its application for revocation of an order in terms

of which its Goods and Services Tax ["**GST**"] registration has come to be cancelled. The order of cancellation is dated 03 August 2023.

3. The said order was preceded by the issuance of a Show Cause Notice ['**SCN'**] dated 21 July 2023, which reads as follows:

> "Reference Number: ZA070723104772N Date 21/07/2023
> To
> Registration Number (GSTIN/Unique ID): 071KMPD0752EIZA
> DHARMENDRA
> KHASRA NO 199, GROUND FLOOR, HARLJAN BASTI, New Delhi, North West Delhi, Delhi, 110039
>
> Show Cause Notice for Cancellation of Registration
>
> Whereas on the basis of information which has come to my notice, it appears that your registration is liable to be cancelled for the following reasons:
> Section 29(2)(c)-registration obtained by means of fraud, wiIfuI misstatement or suppression of facts
> You arc hereby directed to furnish a reply to the notice within seven working days from the date of service of this notice.
> You arc hereby directed to appear before the undersigned on 28/07/2023 at 03:18 PM
> If you fail to furnish a reply within the stipulated date 01' fail to appear for personal hearing on the appointed date and time, the case will be decided ex parte on the basis of available records and on merits.
> Please note that your registration stands suspended with effect from 21/07/2023
> Place: Delhi
> Date: 21/07/2023"

4. However, and ultimately, when the order of 03 August 2023 came to be passed, the respondents held as under:

> "Reference Number: ZA0708230 16283P Date 03/08/2023
>
> To
> DHARMENDRA
> KHASRA NO 199, GROUND FLOOR, HARlJAN BASTI, New Delhi. North West Delhi,Delhi,110039
>
> GSTIN/ UIN :071KMPD0752EIZA
>
> Application Reference Number (ARN): AA070723069685R Date
>
> Order for Cancellation of Registration

This has reference to show cause notice issued dated 21/0712023.

The effective date of cancellation of your registration is 31/03/2023

3. It may be noted that a registered person furnishing return under sub-section (I) of section 39 of the CGST Act, 2017 is required to furnish a final return in FORM GSTR-l 0 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.

Place: RANGE - 44
Date: 03/08/2023

Naveen Kumar Manehanda
Superintendent
Ward 63

5. We find that although the SCN had originally alluded to a violation of Section 29(2)(e) of Central Goods and Services Act, 2017 [‘**CGST Act’**] and with it being alleged that the registration itself had been obtained by “*fraud, wilful misstatement or suppression of facts*”, no details in support of that allegation were set forth in that notice. The order dated 03 August 2023 also fails to deal with the aforenoted aspect and, in fact, is wholly unreasoned.

6. The petitioner thereafter applied for revocation of the aforesaid order of cancellation. The respondents are stated to have issued a SCN dated 25 August 2023 proposing to reject that application and relevant parts whereof are reproduced herein below:

“Reference Number: ZA070823 1248395 Date 25/08/2023

To
DHARMENDRA
GROUND FLOOR, KHASRA NO 199, New Delhi, HARLJAN BASTI, North West Delhi, Delhi, 110039

GSTIN: 07IKMPD0752E1ZA

Application Reference Number (ARN): AA070823011470M
Date 04/08/2023

Show Cause Notice for rejection of application for revocation of cancellation of registration

This has reference to your application dated 04/08/2023 regarding revocation of cancellation of registration. Your application has been examined and the same is liable to be rejected for the following reasons:

1. Reason for revocation of cancellation - Others (Please specify) - You are requested to submit the Purchase & Sale ledger for FY-2023-23, Details of inward supplies along with the proof of receipt of goods for the FY2023-23 such as e-way Bill etc., Details of outward supplies along with copy of e-way bills /purchase order etc. and the copy of bank Statement for the period April, 2023 till date. Further it is also requested to upload documentary evidence in respect of principal place of business such as Geotag photograph of PPOB with properitor.

You are hereby directed to furnish a reply to the notice within seven working days from the date of service of this notice.

You are hereby directed to appear before the undersigned on 0l/09/2023 at 11:28

If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex parte on the basis of available records and on merits.

Kindly refer the supportive document attached for case specific details."

7. It is, therefore, manifest from the aforesaid extract that it was while examining the application for revocation that the respondents required the writ petitioner to furnish further information and account details. Ultimately, the said application came to be rejected with the respondents recording as under:

"This office received a letter from DGGI, Gurgaon, stating that M/s Trilok Enterprises availed and passed on ITC without corresponding supplies in GSTR 2A and E-way bills. Trilok Enterprises passed on Rs.37229169 without any corresponding inward supplies in GSTR 2A for May 2023 and June 2023. Cancellation was initiated, but the party did not participate in the proceedings. During revocation proceedings, party was directed to submit proof of purchase and sale. However, no profit of inward supply (invoices, E-way bills) was submitted on portal. Cancellation proceedings were also initiated against his sole supporter for non-filing of returns. This pattern of ITC availment without inward in GSTR·2A or E-way bills continued for 2 months. The dispatch address in the outward e-way bills submitted was different from the Principal Plate of Business, and the address on the tax invoice letterhead submitted was also different from the PPOB. Hence, I reject the revocation application."

8. As is manifest from a reading of the order passed on the application for revocation and when the same is compared with the original notice, as well as the order of cancellation, it is apparent that the petitioner was confronted with altogether new allegations. The order rejecting the application for revocation is based on grounds which do not even find mention in the original SCN or the order pursuant to which its registration had come to be cancelled. Consequently, we find ourselves unable to sustain the impugned orders.

9. We, accordingly, allow the writ petition and quash the orders dated 03 August 2023 and 12 March 2024. Since the writ petitioner no longer seeks to pursue business activities in terms of the statement made by Mr. Jain, learned counsel, the cancellation shall come into effect from the date of issuance of the SCN dated 21 July 2023.

YASHWANT VARMA, J

HARISH VAIDYANATHAN SHANKAR, J

FEBRUARY 13, 2025/*akc*