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

Date of decision: 19th August, 2025

\+ **W.P.(C) 8276/2025 & CM APPL. 36067/2025**

POOJA ENTERPRISES .....Petitioner
Through: Dr. Amit George, Adv.

versus

SALES TAX OFFICER CLASS II AVATO WARD 72 DELHI & ANR. .....Respondents
Through: Ms. Urvi Mohan, Adv. for GNCTD.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.

2. The present petition has been filed by the Petitioner under Article 226 of the Constitution of India, *inter alia*, assailing the Show Cause Notice (hereinafter, '*SCN*') dated 02nd December, 2024 as also the order of cancellation of Goods and Service Tax (hereinafter, '*GST*') Registration dated 20th December, 2024 (hereinafter, '*impugned order*').

3. Dr. Amit George, ld. Counsel for the Petitioner, submits that the SCN does not raise the issue of retrospective cancellation and hence, the impugned order cannot be sustained on the ground of being beyond the scope of SCN.

4. A perusal of the SCN would show that the only ground, on which cancellation was proposed, was that the Petitioner was not conducting business from the declared place of business. Reply dated 3rd December, 2024

was filed. Certain photographs of the premises have also been placed on record.

5. The order cancelling the GST registration has been effected retrospectively, which cannot be sustained in view of the settled legal position in a number of cases including -

- ***W.P.(C) 5264/2025*** titled '***M/s V R Impex through its Proprietor Mr Vishal vs Commissioner of Delhi Goods And Services Tax and Anr***'
- ***W.P. (C) 12255/2024*** titled '***Subhana Fashion v. Commissioner Delhi Goods and Service Tax***',
- ***W.P.(C) 11913/2024*** titled '***M/S Balaji Industries v. The Principal Commissioner CGST Delhi North Commissionerate & Anr.***' and
- ***W.P.(C) 8061/2024*** titled ***'Ridhi Sidhi Enterprises v. Commissioner of Goods & Service Tax (CGST), South Delhi & Anr.'***

6. The relevant part of the judgment in ***'Riddhi Siddhi Enterprises (supra)'*** is as under:

> *"5. As is manifest from a reading of Section 29, clauses (a) to (e) of Section 29(2) constitute independent limbs on the basis of which a registration may warrant cancellation.* ***<u>While the provision does enable the respondents to cancel that registration with retrospective effect, the mere existence or conferral of that power would not justify a revocation of registration. The order under Section 29(2) must itself reflect the reasons which may have weighed upon the respondents to cancel registration with retrospective effect. Given the deleterious consequences which would ensue and accompany a retroactive cancellation makes it all the more vital that the order be reasoned and demonstrative of due application of mind. It is also necessary to observe that the mere existence of such a power would not in itself be sufficient to sustain its</u>***

invocation. What we seek to emphasise is that the power to cancel retrospectively can neither be robotic nor routinely applied unless circumstances so warrant. When tested on the aforesaid precepts it becomes ex facie evident that the impugned order of cancellation cannot be sustained.

6. We note that while dealing with the right of the respondents to cancel GST registration with retrospective effect and the manner in which such power should be exercised in accordance with the statutory scheme was an issue which was noticed in Ramesh Chander vs Assistant Commissioner of Goods and Services Tax, Dwarka Division, CGST Delhi & Anr. The Court in Ramesh Chander taking note of the contours of Section 29 had held:-

> *"1-5.....*
>
> *6. **Neither the show cause notice, nor the order spell out the reasons for retrospective cancellation. In fact, in our view, order dated 13.07.2022 does not qualify as an order of cancellation of registration.***
>
> *7-8...*
>
> *9. **In terms of Section 29(2) of the Central Goods and Services Tax Act, 2017, the proper officer may cancel the GST registration of a person from such date including any retrospective date, as he may deem fit if the circumstances set out in the said sub-section are satisfied. The registration cannot be cancelled with retrospective effect mechanically. It can be cancelled only if the proper officer deems it fit to do so. Such satisfaction cannot be subjective but must be based on some objective criteria. Merely, because a taxpayer has not filed the returns for some period does not mean that the taxpayer's registration is required to be cancelled with***

retrospective date also covering the period when the returns were filed and the taxpayer was compliant.

10. It is important to note that, according to the respondent, one of the consequences for cancelling a tax payer's registration with retrospective effect is that the taxpayer's customers are denied the input tax credit availed in respect of the supplies made by the tax payer during such period. Although, we do not consider it apposite to examine this aspect but assuming that the respondent's contention in this regard is correct, it would follow that the proper officer is also required to consider this aspect while passing any order for cancellation of GST registration with retrospective effect. ***Thus, a taxpayer's registration can be cancelled with retrospective effect only where such consequences are intended and are warranted.***

11. The show cause notice does not even state that the registration is liable to be cancelled from a retrospective date.

12. The petition is allowed. The impugned show cause notice dated 07.04.2022, order of cancellation dated 13.07.2022 and the order in appeal dated 29.12.2023 are accordingly set aside, GST registration of the petitioner is restored, subject to petitioner filing requisite returns upto date."

7. Therefore the above decision makes it clear that the power to retrospectively cancel the GST registration cannot be exercised in a mechanical manner. The reasons for retrospective cancellation have to be contained in the order, which is clearly absent in this case. As pointed out

above, the Petitioner seems to have filed a reply to the SCN on 3rd December, 2024 and certain photographs of the premises have also been placed on record.

8. Under these circumstances, particularly considering the fact the impugned order solely relies on the ground of the Petitioner's absence in the declared place of business which in itself has been reasonably controverted by the Petitioner, the impugned order including the retrospective cancellation with effect from 7th June, 2024 in the opinion of this Court deserves to be set aside.

9. The matter is remanded back to the concerned Adjudicating Authority to be reheard on merits. Accordingly, the Petitioner is permitted to file a detailed reply by 30th September, 2025. Upon filing the reply, the Adjudicating Authority shall grant a personal hearing to the Petitioner and the notice for the same shall be communicated to the latter on the following mobile no. and e-mail address:

- ***Mobile: 8736086894***
- ***Email ID: epooja824@gmail.com***

10. The reply filed by the Petitioner to the SCN along with the submissions made in the personal hearing proceedings shall be duly considered by the Adjudicating Authority and fresh order with respect to the SCN shall be passed accordingly.

11. All the rights and remedies of the parties are left open. Access to the GST Portal, if not already available, shall be ensured to be provided to the Petitioner to enable access to the notices and related documents.

12. The Petitioner shall also be permitted to file returns for the entire period.

13. The petition, along with pending applications, is disposed of in the above terms.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

AUGUST 19, 2025/*dk/Ar.*