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

\+ W.P.(C) 9824/2024

PREM KUMAR PUGALIA .....Petitioner

Through: Mr. Sumit K. Batra, Mr. Manish Khurana & Ms. Priyanka Jindal, Advs.

versus

COMMISSIONER OF CGST, COMMISSIONERATE DELHI EAST & ANR. .....Respondents

Through: Mr. R. Ramachandran, SSC with Mr. Prateek Dhir, Adv.

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

O R D E R

% **10.01.2025**

1. The writ petitioner is aggrieved by the order of 31 May 2024 pursuant to which its application dated 30 January 2021 for voluntary cancellation of his **Goods and Services Tax**[1] registration has come to be rejected. While examining the application which had been made by the writ petitioner, the respondents appear to have issued a notice on 27 April 2021 calling upon petitioner to file all pending returns as well as to submit a reconciliation statement in respect of the tax paid in GSTR-1 and GSTR-3B.

2. According to the writ petitioner, since all returns for the period upto the date when the application for cancellation was submitted had

[1] GST

been duly filed, no further obligation stood placed upon the writ petitioner. However, in terms of the impugned order, the respondents have held as follows: -

> "**Order of Rejection of Application for Cancellation**
>
> This has reference to your reply filed vide ARN AA070121095096E dated 30/01/2021. The reply has been examined and the same has not been found to be satisfactory for the following reasons:
>
> 1 the party neither appeared for ph nor submitted documents/details till date. therefore, GSTIN cancellation request of the party may be rejected.
>
> Therefore, your application is rejected in accordance with the provisions of the Act."

3. As is ex facie evident from a reading of the aforesaid recitals, the solitary ground on which the application for cancellation has come to be rejected is a failure on the part of the petitioner to appear and to submit documents/details

4. The respondents in the counter affidavit have made the following averments: -

> "The contents of paragraph 1 of the writ petition to the extent that it is matter of record do not call for any reply from the answering Respondents.
> However, it is submitted that when the petitioner applied for cancellation on the first time, the Department advised the Petitioner to
>
> > *"Please file all pending returns and reconciliation of tax paid in GSTR-1 & GSTR-3B"*
>
> In their reply, the taxpayer had uploaded only the screen shot of return for the period January 2021. However, the Taxpayer did not upload the reconciliation sheet. In the absence of the reconciliation sheet, it cannot be ascertained by the department whether the information filed by the taxpayer in table of 10 & 1 1 of REG-16 is correct or not."

5. The factum of filing of returns is one which is conceded by the respondents in the counter affidavit filed in these proceedings itself. In view of the aforesaid, if there had been any discrepancy in the GSTR-

1 and GSTR-3B, it was always open for the respondents to duly process the returns as submitted and frame an order of assessment. The same could have in any case not constituted sufficient ground for rejecting the application for cancellation.

6. Accordingly, we allow the instant writ petition and quash the impugned order dated 31 May 2024. The application of the petitioner for voluntary cancellation of GST registration shall consequently stand allowed. We leave it open to the respondents to proceed further with assessment. Any proceedings in respect thereof so drawn shall be taken to the logical conclusions in accordance with law.

7. All rights and contentions of respective parties in that respect are kept open.

YASHWANT VARMA, J

HARISH VAIDYANATHAN SHANKAR, J

JANUARY 10, 2025/v