



\$~64

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

Date of decision: 28th August, 2025

+ **W.P.(C) 13153/2025**

M/S GAURAV AUTO (INDIA)Petitioner
Through: Mr. Karan Singh, Ms. Samridhi, Mr.
Sarhak Verma, Mr. Kunal Jha and Ms.
Himanshi Dhyani, Advs.

versus

PRINCIPAL COMMISSIONER OF GOODS AND SERVICE TAX
NORTH DELHIRespondent
Through: Ms. Monica Benjamin SSC with Ms.
Nancy Jain, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (oral)

1. This hearing has been done through hybrid mode.

CM APPL. 53912/2025

2. Allowed subject to all just exceptions. Accordingly, the application is disposed of.

W.P.(C) 13153/2025

3. The present petition has been filed by the Petitioner challenging the order dated 22nd November, 2024 (hereinafter “*the impugned order*”) by which the Goods and Services Tax (“GST”) Registration of the Petitioner has been cancelled retrospectively with effect from 29th December, 2017.

4. The Show Cause Notice dated 11th November, 2024 (hereinafter



“SCN”) was issued to the Petitioner with the following remarks:

“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:

1. Rule 21(e)-person avails ITC in violation of the provisions of section 16 of the Act or the rules made thereunder.

Remarks:

“YOU HAVE WRONGLY AVAILED EXCESS ITC AMOUNTING TO Rs 24,66,537/-“

5. The allegation raised against the Petitioner in the impugned order is that there is availment of wrongful Input Tax Credit (hereinafter “ITC”) to the tune of Rs. 24,66,537/-.

6. It is noted that no reply was filed by the Petitioner to the SCN and the personal hearing opportunity was also not availed. Thereafter, the impugned order was passed, retrospectively cancelling the GST Registration, as stated above.

7. It is the case of the Petitioner that the Proprietor -Mr. Satish Kumar, who is 63 years old, wheel chair bound person could not file the reply or attend the personal hearing due to his health condition.

8. Heard. This Court has, in the past, considered the issue of retrospective cancellation in several cases and has clearly observed that if the SCN does not contemplate retrospective cancellation, the consequent order, cancelling the GST Registration in a retrospective manner would not be sustainable.

9. This position has been reiterated by this Court in various decisions including in ***‘Subhana Fashion v. Commissioner Delhi Goods and Service Tax (W.P. (C) 12255/2024)’***, ***“M/S Balaji Industries v. The Principal***



Commissioner CGST Delhi North Commissionerate &Anr. (W.P.(C) 11913/2024) and ***'RidhiSidhi Enterprises v. Commissioner of Goods & Service Tax (CGST), South Delhi &Anr. (W.P.(C) 8061/2024)'***.

10. The relevant portions of the decision in ***Subhana Fashion (supra)*** is as under:

“10. It is apparent to note that non-payment of dues for a period of three months is not a prescribed ground for cancelling the petitioner’s GST registration.

11. It is also important to note that the impugned order sets out a tabular statement, which indicates that no amount has been determined as payable by the petitioner. The Central Tax, State Tax, Integrated Tax and Cess payable by the petitioner is reflected as, “0.0”.

12. Apart from the above, the impugned order has also been passed in violation of principles of natural justice. Although the SCN called upon the petitioner to appear for a personal hearing at the appointed date and time, no such date or time was indicated. Thus, in effect the petitioner was not afforded an opportunity to be heard.

13. In view of the above, we set aside the impugned order. The respondents are directed to restore the petitioner’s GST registration forthwith.”

11. The relevant part of the judgment in ***“M/s Balaji Industries (Vipin Kumar)(Supra)”*** is as under:

“8. It is apparent from the above that the reasons as set out in the impugned order were not the reasons as set out in the SCN. Further, the SCN also did not propose cancellation of the petitioner’s GST registration with retrospective effect from 11.09.2017.



9. *The petitioner filed an appeal against the impugned order cancelling its registration. However, the same was rejected by the appellate authority by the order dated 14.05.2024 on the ground that the petitioner's appeal was barred by limitation.*
 10. *As noted above, the reason for which the petitioner's GST registration was cancelled was not reflected in the SCN. Although, the petitioner claims that it did not receive the SCN, it is apparent that even if it had, the same provided it no opportunity to respond to the reasons as set out in the impugned order cancelling its GST registration.*
 11. **As noted above, the petitioner is not aggrieved by the cancellation of its GST registration as it had closed down its business. The petitioner is, essentially, aggrieved by cancelling of its GST registration with retrospective effect.**
 12. *The present petition was listed on 29.08.2024 and the learned counsel appearing for the respondents sought time to take instructions.*
 13. **The learned counsel for the respondents states that the respondents have no objection if the cancellation of the petitioner's GST registration is made operative with effect from the date of the SCN, that is, with effect from 24.05.2022.**
 14. **In view of above, the present petition is disposed of with the direction that the petitioner's GST registration stands cancelled with effect from 24.05.2022 (being the date on which it was suspended) and not with retrospective effect from 11.09.2017.**
 15. *The impugned order is modified to the aforesaid extent."*
12. 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. 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 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 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. We further take note of the judgment in *Delhi Polymers vs Commissioner, Trade and Taxes & Anr.* wherein the following was observed :-

"1-3.....

4. Show Cause Notice dated 04.09.2021 was issued to the Petitioner seeking to cancel its registration. However, the Show Cause Notice also does not put the petitioner to notice that the registration is liable to be cancelled retrospectively. Accordingly, the petitioner had no opportunity to even object to the retrospective cancellation of the registration.

5. Further, the impugned order dated 15.12.2021 passed on the Show Cause Notice dated 04.09.2021 does not give any reasons for cancellation. It, however, states that the registration is liable to be cancelled for the following reason "whereas no reply to the show



cause notice has been submitted”. However, the said order in itself is contradictory. The order states “reference to your reply dated 15.12.2021 in response to the notice to show cause dated 04.09.2021” and the reason stated for the cancellation is “whereas no reply to notice show cause has been submitted”. The order further states that effective date of cancellation of registration is

01.07.2017 i.e., a retrospective date.

6. Neither the show cause notice, nor the order spell out the reasons for retrospective cancellation. In fact, in our view, order dated 15.12.2021 does not qualify as an order of cancellation of registration. On one hand, it states that the registration is liable to be cancelled and on the other, in the column at the bottom there are no dues stated to be due against the petitioner and the table shows nil demand.

7. Learned Counsel for the Petitioner submits that the said order reflected that the GST registration of petitioner stands cancelled from 01.07.2017 even though returns thereafter have been filed by the Petitioner.

8. He further submits that the petitioner is no longer interested in continuing the business and the business has been discontinued.

9. In terms of Section 29(2) of the Act, 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. 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 is 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."

8. In view of the aforesaid and in light of an abject failure on part of the authority to assign even rudimentary reasons for a retroactive cancellation, we find ourselves unable to sustain the order impugned."

13. Accordingly, the impugned order dated 22nd November, 2024 stands set aside. Let the Petitioner file a reply to the SCN by 15th October, 2025. A personal hearing shall be afforded to the Petitioner on the following e-mail address and mobile no:-

Pranay Jain, Advocate (8527817330)
Email: prannayajain@gmail.com



2025:DHC:7599-DB



14. After hearing the Petitioner and considering the reply filed by the Petitioner, a comprehensive and reasoned order shall be passed.
15. All rights and remedies of the parties are left open.
16. The petition along with pending applications, if any, are disposed of in the above terms.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

AUGUST 28, 2025/sh/ss