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

\+ **W.P.(C) 15219/2025**

SURAJ INDUSTRIES .....Petitioner

Through: Ms. Tabassum Firdause, Mr. M.A. Ansari, Mr. P.K. Malik, Mr. Ahmed Ansari & Md. Imran Ahmed, Advs. (9718503000)

versus

COMMISSIONER OF DGST & ANR. .....Respondents

Through: Ms. Vaishali Gupta, Adv.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

<u>O R D E R</u>

% 08.10.2025

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,* challenging the impugned order dated 31st August, 2023 passed by the Sales Tax Officer Class II/AVATO, Ward 63, by which the GST Registration of the Petitioner has been cancelled retrospectively *(hereinafter, 'impugned order').*

3. The brief background is that the Petitioner had filed an application for cancellation of the GST registration on 11th May, 2022. The said application was considered by the GST Department and a clarification was sought in respect of the same on 14th May 2022. According to the GST Department, there was a mismatch between GSTR-1 & GSTR-3 for Financial Year 2018-19.

4. The application dated 11th May, 2022, for cancellation of GST registration, was rejected *vide* order dated 15th June, 2022, passed by Sales Tax

Officer Class II/AVATO, Ward-63.

5. On the same date *i.e.,* 15th June, 2022, a Show Cause Notice *(hereinafter, 'SCN')* was issued for cancellation of GST registration, on the ground of non-traceability of the firm and that the contact No. on the GST portal, was not working.

6. The aforesaid position is challenged by the Petitioner. Ld. Counsel for the Petitioner submits that the contact No. is still working.

7. In view of the reasons stated in the SCN, the impugned order was passed on 31st August, 2023 by which the GST registration of the Petitioner was cancelled, retrospectively, w.e.f. 1th July 2017.

8. Parallelly, a demand under Section 73 of the Central Goods and Services Tax Act, 2017 *(hereinafter, 'CGST Act')* was raised against the Petitioner *vide* Order dated 21st April, 2024. The demand raised is as under:

Sr. No.	Tax Rate (%)	Turnover	Tax period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Fee	Others	Total
			From	To								
1	2	3	4	5	6	7	8	9	10	11	12	13
1	0	0.00	APR 2018	MAR 2019	SGST	NA	28,383.00	26,566.00	3,322.00	0.00	0.00	58,271.00
2	0	0.00	APR 2018	MAR 2019	CGST	NA	28,383.00	26,566.00	3,322.00	0.00	0.00	58,271.00
3	0	0.00	APR 2018	MAR 2019	IGST	Other Territory	28,657.00	26,823.00	3,355.00	0.00	0.00	58,835.00
Total							85,423.00	79,955.00	9,999.00	0.00	0.00	1,75,377.00

9. Ld. Counsel for the Respondent submits that since the demand is outstanding, the GST registration cannot be restored till the same is paid.

10. Heard. Today, this Court has in **W.P.(C) 15326/2025** wherein Order dated 21st April, 2024, was under challenge, has set aside the same and has remanded the matter for fresh consideration.

11. Be that as it may, there was no proposal to cancel the GST registration

retrospectively. As per the settled legal position, if a SCN does not contemplate retrospective cancellation of GST Registration, the cancellation cannot be given retrospective effect. 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 ***'Ridhi Sidhi Enterprises v. Commissioner of Goods & Service Tax (CGST), South Delhi &Anr. (W.P.(C) 8061/2024)'.***

12. Under these facts and circumstances, the following directions are issued:

(i) The SCN does not take the ground of retrospective cancellation and therefore, is not tenable.

(ii) The demand under Section 73 of the CGST Act has been set aside today, by this Court in **W.P.(C) 15326/2025** and the matter has now been remanded back.

(iii) The credentials of the firm are stated to be working which may be verified by the GST Department.

(iv) The impugned order for cancellation is, accordingly, directed to be modified. The cancellation shall be w.e.f. 15th June 2022 *i.e.*, the date of SCN.

13. Ld. Counsel raises a concern that the contact details of the Petitioner for future purpose are not available. The Petitioner has furnished the same, and is set out below:

Name: Dhiraj Kathuria
Address: Rohini Sector-11, Raja Pur Kalan, Delhi-110085.
Mob. No.: 9312623805

14. If the GST Department decides to take any action against the Petitioner

in respect of any demand, it may do so in accordance with law.

15. The present petition is disposed of in the aforesaid terms. Pending Applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

SHAIL JAIN, J.

OCTOBER 8, 2025

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