



\$~70

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

Date of Decision: 22nd September, 2025

+ **W.P.(C) 14099/2025**

AJAY GUPTA

.....Petitioner

Through: Dr Prince Mohan Sinha with Mr. Vakil
Kumar, Mr. Aniket Krishnatray and Mr
Vikrant Chauhan, Advs.

versus

SALES TAX OFFICER CLASS II/AVATO & ANR.Respondents

Through: Mr. K.G. Gopalakrishnan, Adv.
Ms. Naincy Jain, Jr Standing Counsel
for CBIC/ R-2.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

Prathiba M. Singh, J (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner- Ajay Gupta under Article 226 of the Constitution of India, *inter alia*, challenging the impugned order dated 6th September 2024 passed by the Sales Tax Officer Class II/AVATO, Ward-82, GST Department (*hereinafter 'impugned order'*).
3. The impugned order has been passed cancelling GST registration of the Petitioner, retrospectively, with effect from 1st July, 2017.
4. The brief facts of the case are that, the Petitioner was granted GST registration with effect from 1st July, 2017, and filed its last GST returns in June, 2022. After filing the returns, Petitioner applied for cancellation of GST registration on 22nd July, 2022. Thereafter, no order was passed. However, a Show Cause Notice was issued on 27th May, 2024 by the Sales Tax Officer, Class II/AVATO, Ward-82, GST Department (*hereinafter 'SCN-1'*), seeking additional information. The information sought in SCN-1 is as under:



“This is with reference to your Cancellation application filed vide ARN AA0707220735544 Dated-22/07/2022 The Department has examined your application and is not satisfied with it for the following reasons:

- 1 Cancellation Details - Others (Please specify) - Provide the following details 1.Copy of stock register item wise with the details of ITC held in the raw, semi finished or finished goods.2.Details of the Output tax payable on such stocks/goods.3.Copy of Challan/debit ledger/cash ledger against the credit of Input Tax in r/o goods held in stocks on the day immediately preceding the date of cancellation. 4. Details of the ITC avail on capital goods and its reduction. 5. Details of the Tax on transaction value of such capital goods.*

You are directed to submit your reply by 05/06/2024

If no response is received by the stipulated date, your application is liable for rejection. Please note that no further notice/reminder will be issued in this matter”

5. The aforesaid application filed by the Petitioner for cancellation of GST Registration was thereafter rejected *vide* order dated 7th June, 2024. Another Show Cause Notice dated 11th June, 2024 (*hereinafter* SCN-2) was issued with the following details being sought:

“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. returns furnished by you under section 39 of the Central Goods and Services Tax Act,2017*

Observations

Failure to furnish returns for a continuous period of six months



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

You are hereby directed to appear before the undersigned on 09-07-2024 at 11:00

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 .

Please note that your registration stands suspended with effect from 11/06/2024”

6. Thereafter, no reply was filed by the Petitioner to SCN-2, and the GST registration was cancelled retrospectively by the impugned order dated 6th September 2024.

7. Ld. Counsel for the Petitioner submits that such retrospective cancellation is contrary to law.

8. Mr. K.G. Gopalakrishnan, Id. Counsel for the Respondent submits that he has instructions that, the GST Department would give a hearing to the Petitioner with respect to SCN-2.

9. Heard. A perusal of SCN-2 would show that it does not propose to cancel the registration retrospectively. However, the impugned order has cancelled the GST registration of the Petitioner retrospectively, with effect from 1st July 2017. Thus, such retrospective cancellation would be contrary to law, in terms of the decisions in ***‘Ridhi Sidhi Enterprises v. Commissioner of Goods & Services Tax (CGST), South Delhi & Anr. (W.P.(C)8061/2024)***, Additionally, this Court in the decision in ***Akash Bansal (Proprietor M/S Shri Prem Ji Traders) v. Superintendent Range-109 Central Goods and Services Tax Department, Delhi West Division Rohini, 2025:DHC:6866-DB***. held that in such cases, where the SCN does not propose retrospective cancellation, the cancellation



shall be effected from the date of the issuance of SCN. This position has also been reiterated by this Court in '*Subhana Fashion v. Commissioner Delhi Goods and Services Tax (W.P.(C) 12255/2024*)' and in '*M/S Balaji Industries v. The Principal Commissioner CGST Delhi North Commissionerate & Anr. (W.P.(C) 11913/2024*).

10. Accordingly, the impugned order is set aside. Let the Petitioner file a reply to the SCN-1 *i.e.*, dated 27th May, 2024 and SCN-2 *i.e.*, 11th June, 2024.

11. The information sought by the GST Department shall be submitted by the Petitioner by 15th November, 2025. The GST portal shall be activated for the said purpose within one week.

12. Thereafter, personal hearing shall be granted to the Petitioner on the following e-mail address and mobile number:

- ***E-mail ID: sinhasinhalawchambers@gmail.com***
- ***Mobile: 9899527596***

13. After hearing the Petitioner, let a fresh reasoned order be passed in accordance with law.

14. The present writ petition is disposed of in above terms. All the pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

SEPTEMBER 22, 2025/sh/kp/sm