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

Date of decision: 4th December, 2025

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W.P.(C) 7207/2025

M/S GLOBE COAL COMPANY

.....Petitioner

Through: Mr. Sanjeev, Adv.

versus

COMMISSIONER OF DGST, DELHI AND

OTHERS

.....Respondent

Through: Ms. Urvi Mohan, Adv.

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, *inter alia*, challenging the impugned order dated 11th March, 2025, passed by the Appellate Authority under the Delhi Goods and Services Act, 2017 (hereinafter "*the impugned order*").
3. The said appeal was filed against the order dated 17th August, 2023 *vide* which the GST registration of the Petitioner has been cancelled with retrospective effect *i.e.*, from 21st July, 2020 (hereinafter "*the order of cancellation*").
4. The order of cancellation was passed from proceedings initiated under Show Cause Notice for cancellation of registration dated 11th November, 2021, which was issued on the ground that the Petitioner was found to be non-functioning/ non-existent at the principal place of business.
5. The submission of the Id. Counsel for the Petitioner is that since the



cancellation is retrospective, the Input Tax Credits (hereinafter “ITC”) which have been availed of by the Petitioner may be jeopardized. He also submits that the concerned premises, which is registered as the primary place of business of the Petitioner, belongs to the Petitioner and the Respondent Department may even conduct an inspection in this regard.

6. On 26th May, 2025, Ms. Mohan, Id. Counsel for the Respondent Department was directed to seek instructions in the following terms:

“8. Let the Id. Counsel for the Respondent take instructions and file an affidavit as to whether any show cause notice has been issued to the Petitioner qua availment of Input Tax Credits. ”

7. Today, it is submitted by Ms. Mohan, Id. Counsel that there are no other Show Cause Notices (hereinafter “SCN”) which have been issued to the Petitioner in respect of availment of ITC.

8. The Id. Counsel for the Petitioner reiterates that the SCN dated 11th November, 2021 is based on the ground that the Petitioner is not functioning from the principal place of business which is at U-158, Vikas Marg, Shakarpur, East Delhi, Delhi. Further, the proprietor *i.e.*, Mr. Mahbir Prasad Bagla has his residential address at 11/411 B, Gali No.11, Lalit Park, Laxmi Nagar, Delhi-110092.

9. He further submits that the Shakarpur business place is actually owned by the Petitioner and, therefore, the ground that the Petitioner is not found at the premises is completely not tenable.

10. In addition, Id. Counsel that the Petitioner prays for restoration of the GST registration as the Petitioner wishes to continue the business.

11. The Court has heard the parties and considered the matter. A perusal of the SCN dated 11th November, 2021 shows that the same does not



contemplate retrospective cancellation which has been directed *vide* the cancellation order dated 17th August, 2023. The settled position in law is that if the SCN does not contemplate retrospective cancellation the order for cancellation retrospectively would not be tenable. The relevant part of the judgment in ***Riddhi Siddhi Enterprises vs. Commissioner Of Goods And Services Tax (Cgst), South Delhi & Anr., W.P.(C) 8061/2024*** 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 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."

11. Thus in view of the settled legal position captured above, the cancellation of Petitioner's GST Registration is, accordingly, directed to be effective from the date of issuance of the SCN i.e., 6th August 2024. The Department is, however, free to proceed in accordance with law qua the Petitioner in case, it still



intends to direct retrospective cancellation.”

12. In view of the above, the order of cancellation of the registration is not tenable. The appeal of the Petitioner was dismissed *vide* impugned order dated 11th March, 2025 as being barred by limitation.

13. Under such circumstances, the following directions are issued:

- i. The access to the GST portal shall be given to the Petitioner within a period of one week.
- ii. Upon access being given all the previous returns of the Petitioner's business shall be filed on the portal along with the late payment and penalty, if any.
- iii. The Respondent Department is free to conduct a fresh inspection and verify the existence of the Petitioner.

14. If there is any violation the Respondent Department may take action in accordance with law.

15. The GST registration of the Petitioner is restored in the above terms and the cancellation order dated 17th August, 2023 as also the impugned order dated 11th March, 2025 are set aside.

16. The petition is disposed of in these terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

DECEMBER 4, 2025

dj/msh