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

Date of decision: 08th May, 2025

+ **W.P.(C) 6146/2025 & CM APPL. 27963/2025**

GARG CANDLE WORKS

.....Petitioner

Through: Mr. Vishal Sharma & Mr. Ashok
Sharma, Advs.

versus

COMMISSIONER, DELHI GST & ANR.

.....Respondents

Through: Ms. Vaishali Gupta, Adv. for GNCTD.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, (Oral)

1. This hearing has been done through hybrid mode.
2. The present Petition has been filed by the Petitioner-Garg Candle Works under Article 226 and 227 of the Constitution of India *inter alia* seeking to set aside the order dated 6th September, 2024 (hereinafter '*impugned order*') *vide* which the Petitioner's GST registration was cancelled.
3. The brief background of the case is that the Petitioner was registered with GST No. 07ARNPG2347Q1Z8 since 1st July, 2017. He had applied for cancellation of the registration on 15th May, 2023, thereafter, a notice was issued on 14th June, 2023 by which the following details were sought:

"This is with reference to your Cancellation application filed vide ARN AA070523050195F Dated - 15/05/2023 The Department has examined your application and is



not satisfied with it for the following reasons:

1. Cancellation Details - Others (Please specify) - File P/L account as on date of closure of business and also file all the due returns up to date of discontinuation of business

2 Cancellation Details - Others (Please specify) - Pay the due taxes and interest on the mismatch amount in GSTR-2A/3B and GSTR-1/3B

*You are directed to submit your reply by 23/06/2023
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”*

4. No reply was submitted to the said notice, as the Petitioner contends that he was unaware of its issuance, having already applied for cancellation of the registration. The said cancellation application was rejected *vide* order dated 30th April, 2024 on the following grounds:

*“This has reference to your reply filed *vide* ARN AA070523050195F dated 15/05/2023. The reply has been examined and the same has not been found to be satisfactory for the following reasons:*

1 The taxpayer had not filed P/L account as on date of closure of business to assess the liability on account of stock etc. and also not filed all the due returns up to date of discontinuation of business. Also the due tax on mismatch of GSTR-2A & 3B and GSTR-1 & 3B have not been discharged by the taxpayer. Accordingly, the request of the taxpayer is REJECTED.

Therefore, your application is rejected in accordance with the provisions of the Act.”



5. Thereafter, however, Show Cause Notice dated 14th May, 2024 (hereinafter ‘*impugned SCN*’) was issued by the Respondent-GST Department as to why the Petitioner’s registration should not be cancelled. Surprisingly, this was issued a year after the Petitioner’s application for cancellation of registration. The grounds for SCN were as under:

“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 10-06-2024 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 14/05/2024.”

The Petitioner did not respond to the said notice, and consequently, the registration was cancelled by the impugned order with retrospective effect from 1st July, 2017.

6. A perusal of the impugned SCN would show that the main reason for cancellation retrospectively is the failure to furnish returns for a period of six months. The Petitioner obviously could not have filed returns for six months as the Petitioner had already applied for cancellation of the GST registration. Therefore this ground, in the opinion of the Court, is not a sustainable ground



for retrospective cancellation and the retrospective cancellation deserves to be set aside.

7. On a query from the Court, ld. Counsel for the Petitioner has submitted that the Petitioner's GST registration is not subject matter of any other Show Cause Notice under Sections 73 or 74 of the Act in respect of supply of goods and services.

8. In view of this position, the impugned order is set aside. It is directed that the cancellation of the GST registration will take effect from 14th May, 2024. It is also clarified that any other proceedings *qua* the GST No. 07ARNPG2347QIZ8 shall not be effected by the order of this Court.

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

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MAY 8, 2025
dj/Ar.