



2024:DHC:5016-DB



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

% *Date of Decision: 08.07.2024*

+ **W.P.(C) 9180/2024**

M/S SHIVVOY ENTERPRISES

.....Petitioner

Through: Mr Vineet Bhatia and Mr Bipin Punia,
Advocates.

versus

COMMISSIONER OF CGST, DELHI
NORTH AND ORS.

.....Respondents

Through: Mr Shubham Tyagi, Senior Standing
Counsel for CBIC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE SACHIN DATTA

VIBHU BAKHRU, J. (ORAL)

1. Issue notice.
2. The learned counsel appearing for the respondents accepts notice.
3. The petitioner has filed the present petition impugning a Show Cause Notice dated 14.06.2022 (hereafter *the impugned SCN*) calling upon the petitioner to show cause as to why its GST Registration (GSTIN: 07AATFS9380G1ZG) not be cancelled. The reason stated in the impugned SCN for the then proposed action is set out below:

“1 VISITED AT REGISTERED ADDRESS FOR PHYSICAL VERIFICATION. THE FIRM WAS FOUND NOT EXISTENCE.”

4. The petitioner was also called upon to respond to the impugned SCN within seven working days and was further directed to appear before the Proper Officer on 16.06.2022 for a personal hearing. The petitioner's



2024:DHC:5016-DB



registration was also suspended with effect from the said date – 14.06.2022. The petitioner did not respond to the impugned SCN, which led to the respondent cancelling the petitioner’s GST registration by an order dated 23.08.2022 for the reasons stated in the impugned SCN – that the firm was found to be non-existent during physical verification. Additionally, it was stated that the owner of the given premises had made a statement that the petitioner had not occupied the given premises.

5. The petitioner filed an application seeking revocation of the order cancelling its registration, principally, on the ground that the petitioner also had an additional place of business, which was registered and was reflected in its GST registration certificate. However, those premises were not inspected. The petitioner claimed that it continued to operate from the said premises.

6. The said application was also rejected on the ground that the reasons for revocation were not covered under the Amnesty Scheme, which was notified by the notification dated 31.03.2023.

7. The petitioner responded to the Show Cause Notice dated 26.06.2023, *inter alia*, accepting that the notification referred to in the Show Cause Notice dated 26.06.2023 did not apply for reasons other than non-filing of the GST Returns. However, the petitioner claimed that the reasons for seeking revocation of cancellation were genuine and it was conducting the day to day business from its additional place of business.

8. The petitioner contended that the non-compliance of any statutory provisions due to genuine or unavoidable reasons would also warrant revocation of the cancellation of the GST Registration.



2024:DHC:5016-DB



9. The aforesaid contention was not accepted and by an order dated 21.07.2023, the petitioner's application seeking revocation of cancellation order dated 23.08.2022 was rejected.

10. The petitioner filed an appeal against the said order, which was also rejected by the order-in-appeal dated 15.03.2024.

11. Although, the petitioner has a remedy of an appeal before the GST Tribunal, however, the same is illusory as the GST Tribunal has not been constituted as yet.

12. It is in the aforesaid circumstances, that the petitioner has approached this Court.

13. A plain reading of the petitioner's GST Registration Certificate indicates the petitioner's principal place of business as "103, Block-A, Kamla Nagar, South-East Delhi, Delhi-110007". It also reflects the petitioner's additional place of business as "18, Suraj Kund Road, Pul Pehladpur, South-East Delhi, Delhi – 110044". The petitioner is a Custom House Agent (CHA) and had also produced its licence, which reflects its place of business as "103, Block-A, Kamla Nagar, South-East Delhi, Delhi-110007". However, the petitioner concedes that it is not functioning from the said premises.

14. The learned counsel appearing for the petitioner submits that the petitioner had, prior to the roll out GST regime with effect from 01.07.2017, applied for a change of its principal place of business [103, Block-A, Kamla Nagar, South-East Delhi, Delhi-110007] to the address as reflected as its additional place of business [18, Suraj Kund Road, Pul Pehladpur, South-East Delhi, Delhi – 110044]. However, that application was not accepted as the



petitioner's additional place of business was already reflected in the records. The said records were then carried forward and the petitioner's GST Registration also reflected its principal place of business, which is admittedly erroneous as the petitioner was not carrying on its business from those premises.

15. It is clear from the above that the petitioner was at fault in securing a GST Registration by incorrectly reflecting its principal place of business. It is also apparent that the petitioner had not taken the necessary steps to rectify the same as required.

16. Having stated the above, it is difficult to accept that the petitioner should be denied its registration solely on the said ground as the records clearly do reflect the place of business from where the petitioner carries on its business being the additional place of business as reflected in its Registration Certificate dated 17.07.2018.

17. The learned counsel appearing for the respondents has secured instructions and submits that the petitioner's additional place of business would be verified and if the petitioner's contention that it has been carrying on its business from the said place, is found to be correct, the petitioner's GST Registration would then be restored. This is also subject to the petitioner applying for rectification of its principal place of business in accordance with law, immediately after its registration is restored.

18. In view of the above, the present petition is disposed of by directing the respondents to verify whether the petitioner has been carrying on its business from its additional place of business [18, Suraj Kund Road, Pul Pehladpur, South-East Delhi, Delhi – 110044] within a period of three weeks from date.



2024:DHC:5016-DB



19. In the meanwhile, the petitioner is also at liberty to file such documents and material as relevant for establishing that it has been carrying on its business from the said address. In the event the Proper Officer is satisfied that the petitioner has been carrying on its business at its additional place of business, the Proper Officer would take immediate steps for restoration of the petitioner's GST Registration. The other officials of the department would also cooperate with the same. On the petitioner's GST Registration being active, the petitioner shall take immediate steps to rectify the record by making a proper application for deletion of its principal place of business as reflected in its Registration Certificate dated 17.07.2018.

20. The petition is disposed of with the aforesaid directions.

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 08, 2024
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