



\$~31

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

% *Date of Decision: 12.12.2023*

+ **W.P.(C) 15931/2023**

M/S R. K. METAL INDUSTRIES ..... Petitioner

Through: Mr. Dinesh Mohan Sinha, Mr.  
Rajeev Kr. Deora & Mr. Wakil  
Kumar, Advs.

versus

COMMISSIONER OF GST & ANR. .... Respondents

Through: Mr. Rajeev Aggarwal, ASC with  
Ms. Charu Sharma, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**VIBHU BAKHRU, J.**

1. Issue notice.
2. Mr. Rajeev Aggarwal, learned counsel appearing for the respondents accepts notice.
3. The petitioner has filed the present petition impugning an order dated 28.09.2019 (hereafter '**the impugned order**') whereby the petitioner's GST registration was cancelled with retrospective effect from 01.07.2017. The impugned order does not record any reason for cancelling the petitioner's GST registration but it refers to the Show



Cause Notice dated 26.09.2019 (hereafter 'SCN').

4. The proper officer had issued the SCN proposing to cancel the petitioner's GST registration on the ground that the petitioner had not filed returns for a continuous period of six months. The petitioner responded to the SCN stating that the firm was closed in September, 2018 due to a sealing drive conducted by the East Delhi Municipal Corporation. The petitioner further stated that an attempt was made to surrender the petitioner's GST registration but the system was showing an error message. The petitioner also filed a copy of the letter which indicates that a request for cancellation of the GST registration was issued by the petitioner.

5. Section 29(2) of the Central Goods and Services Tax Act, 2017 empowers the proper officer to cancel the registration from any date including with retrospective effect if the authority deems it fit. However, the discretion to cancel the registration with retrospective effect cannot be exercised arbitrarily. In the present case, the only reason for proposing to cancel the petitioner's GST registration was that the petitioner had not filed the returns for a continuous period of six months. However, the registration has also been cancelled for a period during which the petitioner had filed the GST returns. As noted above, the impugned order provides no reason whatsoever for cancelling the petitioner's GST registration much less the reason for doing so with retrospective effect.

6. In view of the above, the present petition is allowed. We direct that the petitioner's GST registration be cancelled from September, 2018. However, it is clarified that this would not preclude the



respondents from initiating any proceedings in case the petitioner has violated any statutory provisions.

7. The petition is disposed of in the aforesaid terms

**VIBHU BAKHRU, J**

**AMIT MAHAJAN, J**

**DECEMBER 12, 2023**

**Ch**