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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 31.07.2024*+ **W.P.(C) 10265/2024 and CM APPL. 42073/2024**

ANWAR ALI

.....Petitioner

Through: Mr. Vibhas Kumar Jha, Mr. Rajat  
Pandey and Ms. Manju Pandey, Advs.

versus

THE ADDITIONAL COMMISSIONER OF CGST DELHI &amp; ANR.

.....Respondents

Through: Mr.Udit Malik, ASC and Mr.Vishal  
Chanda, Advocate for GNCTD.**CORAM:****HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MR. JUSTICE SACHIN DATTA****VIBHU BAKHRU, J. (Oral)**

1. The petitioner has filed the present petition impugning an order dated 22.05.2024 (hereafter *the impugned order*), whereby the petitioner's application seeking condonation of delay in filing his application for revocation of the cancellation order dated 27.07.2023 (hereafter *the cancellation order*) cancelling his Goods and Services Tax (GST) registration under the Central Goods and Services Tax Act, 2017 (hereafter *CGST Act*), was rejected.

2. The petitioner claims that he is registered with the GST Authorities with effect from 29.12.2022 and was assigned a Goods and Services Tax Identification Number (GSTIN): 07DPPPA2875L1ZE. The petitioner claims that thereafter he carried on his business for a period of over four months. Thereafter, he filed 'NIL' GST returns as there were no transactions. The



petitioner claims that there was no default in filing his returns and the same were filed within the stipulated time.

3. The proper officer issued a Show Cause Notice dated 28.06.2023 (hereafter *the SCN*) proposing to cancel the petitioner's GST registration. The only reason set out for proposing the cancellation of the petitioner's GST registration reads as under: -

‘1 Section 29(2)(e)-registration obtained by means of fraud, wilful misstatement or suppression of facts.’

4. The petitioner was called upon to file a reply to the SCN within the period of seven working days from the date of the SCN and was also directed to appear before the proper officer on 05.07.2023 at 11:00AM. Additionally, the petitioner's GST registration was suspended with effect from the date of the SCN, that is 28.06.2023.

5. The petitioner did not respond to the SCN and consequently, the petitioner's GST registration was cancelled by the cancellation order. The cancellation order does not specify any reason for cancelling the petitioner's GST registration; it merely states that same is with reference to the SCN dated 28.06.2023.

6. The petitioner states that on becoming aware of the cancellation order, the petitioner filed an application dated 08.03.2024 seeking revocation of the cancellation order and praying for a condonation of delay in preferring the revocation application. Pursuant to the said application, the petitioner received a notice dated 08.05.2024 affording the petitioner a personal hearing on 16.05.2024. The petitioner claims that his representative (accountant) visited the said building at the appointed date, that is, on 16.05.2024 and found that the building was closed due to a fire incident that



had occurred two days prior to that date.

7. Thereafter, the proper officer passed the impugned order rejecting the petitioner's application seeking condonation of delay in filing the revocation application. In the aforesaid circumstances, the petitioner has filed the present petition.

8. The petitioner is not aggrieved by the cancellation of his GST registration as the petitioner claims that he had stopped carrying on his business about four months after he was registered with the GST Authorities. The petitioner is essentially aggrieved by the action of the proper officer to cancel his GST registration *ab initio* – from the date it was initially granted.

9. A plain reading of the SCN indicates that same is not intelligible. Although, the SCN alleges that the petitioner has obtained registration by means of fraud, wilful misstatement, or suppression of facts. It does not disclose as to the nature of fraud allegedly committed; statement which is alleged to be a wilful mistake; or the nature of the relevant facts, which are alleged to have been suppressed by the petitioner.

10. It is also relevant to refer to Sub-section (2) of Section 29 of the CGST Act, the same is set out below:

“(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,-

(a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or

(b) a person paying tax under section 10 has not furnished the return for a financial year beyond three months from the due date of furnishing the said return; or

(c) any registered person, other than a person specified in



clause (b), has not furnished returns for a such continuous tax period as may be prescribed; or  
(d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or  
(e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

**Provided** that the proper officer shall not cancel the registration without giving the person an opportunity of being heard:

**Provided** further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.”

11. Section 29(2) of the CGST Act empowers the proper officer to cancel a taxpayer’s registration, including with retrospective effect, on the grounds as set out in Section 29(2) of the CGST Act. In the present case, the SCN refers to clause (e) of Section 29(2) of the CGST Act which provides for cancellation of a taxpayer’s GST registration if it is obtained by means of fraud, wilful misstatement or suppression of facts. The SCN merely reproduces the statutory provision.
12. It is apparent that the SCN does not meet the requisite standards of a show cause notice inasmuch as it does not enable the noticee to meaningfully respond to the allegations on the basis of which an adverse action was proposed.
13. The cancellation order is also bereft of any reason and does not spell out the grounds for which the petitioner’s GST registration has been cancelled.
14. In view of the above, we consider it apposite to accede to the prayer



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made by the learned counsel for the petitioner. It is directed that the cancellation order shall take effect from the date of the SCN, that is, with effect from 28.06.2023, and not with retrospective effect from 29.12.2022.

15. We clarify that this will not preclude the respondents from initiating proceedings for any statutory violation, if any or for recovery of tax, if found due in accordance with law. The respondents can also initiate proceedings for retrospective cancellation of the petitioner's registration, *albeit*, in accordance with law.

16. The present petition is disposed of with the above terms. Pending application is also disposed of.

**VIBHU BAKHRU, J**

**SACHIN DATTA, J**

**JULY 31, 2024**

*at*