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

% *Date of Decision : 23.07.2024*

\+ **W.P.(C) 10034/2024 and CM APPL. 41035/2024**

SHOBHA RANI .....Petitioner

Through: Mr.Rajesh Mahna, Mr.Ramanand Roy, Mr.Mithlesh Tiwari and Mr.Mayank Routs, Advocates.

versus

COMMISSIONER OF DELHI GOODS AND SERVICES TAX & ANR.

.....Respondents

Through: Mr.Udit Malik, ASC and Mr.Vishal Chanda, Advocate.

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 22.06.2021 (hereafter *the impugned order*) whereby the petitioner's Goods and Services Tax Registration – Goods and Service Tax Identification Number (GSTIN) 07AJJPR3972L1ZI – was cancelled with retrospective effect from 26.10.2017.

2. The impugned order does not indicate any reason for cancelling the petitioner's GST registration except referring to the Show Cause Notice dated 08.02.2021 (hereafter *the impugned SCN*).

3. The petitioner was issued the impugned SCN and called upon the

petitioner to show case as to why its GST registration be not cancelled on the failure to file the returns for continuous period of six months. The petitioner was called upon to file the reply to the impugned SCN within the period of seven working days. The petitioner was also put to notice that if the petitioner did not appear for personal hearing on the appointed date and time, the case would be decided *ex parte*. Additionally, the petitioner's GST registration was suspended from the date of the impugned SCN – 08.02.2021.

4. It is material to note that the impugned SCN did not propose cancellation of the petitioner's GST registration with retrospective effect. Although, the petitioner was put to notice that in case the petitioner failed to appear for personal hearing at the appointed date and time, the case would be decided *ex parte.* However, no date or time for personal hearing was mentioned in the impugned SCN.

5. In view of the above, we find merit in the contention of the petitioner that the petitioner's GST registration could not have been cancelled without affording the petitioner an opportunity of personal hearing to address the aspect of cancellation of GST registration with retrospective effect.

6. Mr. Mahana, learned counsel appearing on behalf of the petitioner, states on instructions, that the petitioner has no objection if the petitioner's registration remains cancelled, and the present petition be confined to the question of cancellation with the retrospective effect. He submits that there is no plausible reason to cancel the petitioner's registration to cover the period during which the returns were duly filed by the petitioner.

7. The learned counsel for the respondent states that it would not be apposite for this Court to decide the question of retrospective cancellation as the Proper Officer is duly empowered under Section 29(2) of the Central Goods and Services Tax Act, 2017 to cancel the registration with such date as he considers fit. He submits that the matter may remanded to the Proper Officer to consider this aspect of cancellation of GST registration of the petitioner after hearing the petitioner.

8. In the peculiar facts of this case including the delay on the part of the petitioner to approach this Court, the submission made by the learned counsel for the respondent commends to this Court.

9. In view of the above, the impugned order is set aside and the matter is remanded to the Proper Officer for consideration afresh. The petitioner may file its reply to the impugned SCN within the period of two weeks from date. The Proper Officer will consider the reply of the petitioner and take an informed decision after affording an opportunity of being heard to the petitioner.

10. The petition stands disposed of in the aforesaid terms. Pending application also stands disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 23, 2024
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Click here to check corrigendum, if any