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

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Date of Decision: 10.11.2023

+ **W.P.(C) 13642/2023**

VAB APPAREL LLP

..... Petitioner

Through: Mr. Vineet Bhatia, Mr. Aamnaya
Jagannath Mishra & Mr. Bipin
Punia, Advs.

Versus

COMMISSIONER, DELHI GST AND ORS. Respondents

Through: Mr. Arnav Kumar, Mr. Aranya
Sahay & Mr. Gurdas Khurana,
Advs.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE AMIT MAHAJAN

VIBHU BAKHRU, J.

1. The petitioner has filed the present petition impugning an order dated 23.05.2022 (hereafter '**the impugned order**') cancelling the petitioner's GST registration with effect from 05.03.2018. The said order was passed pursuant to a Show Cause Notice dated 19.05.2022 (hereafter '**the SCN**').

2. A plain reading of the SCN indicates that the petitioner's GST registration was proposed to be cancelled for the following reasons:

"In case, Registration has been obtained by means of fraud, wilful misstatement or suppression of facts."

3. The petitioner was directed to respond to the SCN within seven working days and to appear before the concerned officer on 23.05.2022.



The petitioner's GST registration was also suspended with effect from the date of issuance of the SCN.

4. It is apparent from the above that the SCN is bereft of any material particulars. It neither specifies the fraud alleged to have been committed by the petitioner nor any alleged wilful misstatement made by the petitioner. The SCN also did not mention any facts that were allegedly suppressed by the petitioner.

5. Although, the petitioner was granted seven working days to respond to the SCN, the Proper Officer did not wait for the said period to expire and the impugned order cancelling the petitioner's GST registration was passed four days later.

6. The only reasons stated in the impugned order are that the petitioner's response to the query was not proper; no documentary evidence had been produced by the taxpayer; and none had appeared for personal hearing. The impugned order neither refers to any fraud that was found to have been committed by the petitioner nor mentions any misstatement allegedly made by the petitioner.

7. It is also relevant to note that although the SCN did not propose the cancellation of the petitioner's GST registration with retrospective effect yet the petitioner's GST registration has been cancelled with effect from 05.03.2018, that is, the date on which the said registration was granted.

8. The learned counsel appearing for the respondents submits that although the SCN as well as the impugned order did not specify any



reason for cancellation of the petitioner's GST registration, the respondent's portal reflected the following reason for cancellation of petitioner's GST registration:

“Party was found existent but non-functioning. Buyer and suppliers found suspicious. Mobile phone number mentioned in registration was not responded by the taxpayer.”

9. The aforesaid reason, which the respondents seek to rely on, is also cryptic. There is no explanation as to why the buyers and suppliers have been found to be suspicious. Merely because the petitioner's shop was found closed, absent anything more, is not a ground for cancellation of petitioner's GST registration.

10. In view of the above, the petition is allowed.

11. The impugned order cancelling the petitioner's GST registration is set aside. The respondents are directed to restore the same forthwith.

12. However, it is clarified that this would not preclude the respondents from taking any action against the petitioner in accordance with law, if the petitioner is found to be in violation of any statutory provisions.

13. The petition is disposed of in the aforesaid terms.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

NOVEMBER 10, 2023

‘gsr’