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

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Date of decision: 04.03.2024

+ **W.P.(C) 1509/2024**

M/S SALASAR TRADING COMPANY

..... Petitioner

versus

PRINCIPAL COMMISSIONER OF GOODS AND SERVICE TAX  
NORTH DELHI

..... Respondent

**Advocates who appeared in this case:**

For the Petitioner: Mr. Pranay Jain, Advocate.

For the Respondent: Mr. Rajeev Aggarwal, ASC.

**CORAM:-**

**HON'BLE MR. JUSTICE SANJEEV SACHDEVA**

**HON'BLE MR. JUSTICE RAVINDER DUDEJA**

**JUDGMENT**

**SANJEEV SACHDEVA, J. (ORAL)**

1. Petitioner impugns order dated 31.07.2023 whereby the GST registration of the petitioner was cancelled retrospectively with effect from 28.05.2022. Said cancellation order was issued pursuant to a Show Cause Notice dated 18.07.2023.

2. Show Cause Notice dated 18.07.2023 was issued to the Petitioner seeking to cancel its registration on the ground "*Section 29(2)(e)- registration obtained by means of fraud, wilful misstatement or suppression of facts*". Said Show Cause Notice required the



petitioner to appear before the undersigned i.e. authority issuing the notice on 25.07.2023 at 10:45AM. However, the Notice does not give the name of the officer or place where the petitioner has to appear. Further, the digital signatures in the show cause notice merely mention “*digitally signed by DS GOODS AND SERVICES TAX NETWOK 07.*”

3. The said Show Cause Notice also does not put the petitioner to notice that the registration is liable to be cancelled retrospectively. Thus, the petitioner had no opportunity to even object to the retrospective cancellation of the registration.

4. Thereafter, the impugned order dated 31.07.2023 passed on the said Show Cause Notice also does not give reasons of cancellation. It merely states “*reference to show cause notice issued dated 18.07.2023*” and subsequently states “*effective date of cancellation of your registration is 28.05.2022*”.

5. Learned counsel for petitioner submits that the petitioner submitted an application dated 29.12.2023 seeking condonation of delay in filing the application seeking revocation of cancellation of registration whereby the Petitioner stated that he was not well and his tax consultant did not inform him of filing the said returns, however, he was ready to file the returns and pay the tax liability including the payment of penalty.

6. We notice that the show cause notice and the impugned order are bereft of any details accordingly the same cannot be sustained.



Neither the show cause notice, nor the order spell out the reasons for retrospective cancellation.

7. In terms of Section 29(2) of the Central Goods and Services Tax Act, 2017, the proper officer may cancel the GST registration of a person from such date including any retrospective date, as he may deem fit if the circumstances set out in the said sub-section are satisfied. The registration cannot be cancelled with retrospective effect mechanically. It can be cancelled only if the proper officer deems it fit to do so. Such satisfaction cannot be subjective but must be based on some objective criteria. Merely, because a taxpayer has not filed the returns for some period does not mean that the taxpayer's registration is required to be cancelled with retrospective date also covering the period when the returns were filed and the taxpayer was compliant.

8. It is important to note that, according to the respondent, one of the consequences for cancelling a tax payer's registration with retrospective effect is that the taxpayer's customers are denied the input tax credit availed in respect of the supplies made by the tax payer during such period. Although, we do not consider it apposite to examine this aspect but assuming that the respondent's contention in this regard is correct, it would follow that the proper officer is also required to consider this aspect while passing any order for cancellation of GST registration with retrospective effect. Thus, a taxpayer's registration can be cancelled with retrospective effect only where such consequences are intended and are warranted.



9. In view of the aforesaid, order dated 31.07.2023 cannot be sustained and is accordingly set aside. The GST registration of the petitioner is restored. The petitioner shall, however, make all necessary compliances and file the requisite returns and information inter alia in terms of Rule 23 of the Central Goods and Services Tax Rules, 2017.

10. It is clarified that Respondents are also not precluded from taking any steps for recovery of any tax, penalty or interest that may be due in respect of the subject firm in accordance with law including retrospective cancellation of the GST registration.

11. The petition is accordingly disposed of in the above terms.

**SANJEEV SACHDEVA, J**

**RAVINDER DUDEJA, J**

**MARCH 04, 2024/sk**