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

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Date of decision: 18.01.2024

+ **W.P.(C) 295/2024**

M/S SHREYA INTERNATIONAL

..... Petitioner

versus

PRINCIPAL COMMISSIONER, DEPARTMENT OF TRADE AND
TAXES & ANR. Respondents**Advocates who appeared in this case:**

For the Petitioner: Mr. A.K. Prasad, Advocate.

For the Respondents: Mr. Rajeev Aggarwal, ASC with Mr. Prateek and Ms.
Samridhi, Advocates.**CORAM:-****HON'BLE MR. JUSTICE SANJEEV SACHDEVA****HON'BLE MR. JUSTICE RAVINDER DUDEJA****JUDGMENT****SANJEEV SACHDEVA, J. (ORAL)**

1. Petitioner impugns order dated 04.11.2021, whereby the GST registration of the petitioner was cancelled retrospectively with effect from 10.07.2017 and also impugns Show Cause Notice dated 19.10.2021. Vide Show Cause Notice dated 19.10.2021, petitioner was called upon to show cause as to why the registration be not cancelled for the following reasons:-

“non compliance of any specified provisions in the GST Act or the Rules made thereunder as may be prescribed”



2. Subsequently, the impugned order of cancellation dated 04.11.2021 was passed citing the following reason:-

“Response not received”

3. We may note that though the Show Cause Notice states that *“non compliance of any specified provisions in the GST Act or the Rules made thereunder as may be prescribed”*, however, it fail to mention which specific provisions have not been complied with.

4. The impugned order also seeks to cancel the registration with retrospective effect from 10.07.2017. There is no material on record to show as to why the registration is sought to be cancelled retrospectively.

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

6. Therefore, both the show cause notices and the impugned order are bereft of any reasoning and particulars and are accordingly not sustainable.

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. 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 above, the Show Cause Notice as well as the Impugned Order are set aside and the registration is restored. Petitioner shall file the requisite returns upto date.

10. It would be, however, open to the respondent to take further action in accordance with law *inter alia*, cancellation of registration with retrospective effect. However, the same would be in accordance



with law and pursuant to a proper Show Cause Notice and an opportunity of hearing being given to the petitioner.

11. Respondents are also not precluded from taking any steps for recovery of any tax, penalty or interest that may be due from the petitioner in accordance with law.

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

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

January 18, 2024/vp

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