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

% *Date of Decision: 11th December, 2023*

+ **W.P.(C) 15843/2023**

M/S AAIRA BATTERIES

..... Petitioner

Through: Mr. Pranay Jain & Mr. Karan Singh,
Adv.

versus

PRINCIPAL COMMISSIONER OF DEPARTMENT
OF TRADE TAXES, GOVERNMENT OF
NCT OF DELHI

..... Respondent

Through: Mr. Rajeev Aggarwal, ASC with
Ms. Samridhi Vats, Adv.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE AMIT MAHAJAN

VIBHU BAKHRU, J. (Oral)

CM APPL. 63788/2023 (for exemption)

1. Exemptions allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. Issue notice.
4. Mr. Rajeev Aggarwal, learned counsel for the respondent, accepts notice.
5. The petitioner has filed the present petition, *inter alia*, impugning an order dated 20.09.2021 (hereafter '**the impugned order**'), whereby the



petitioner's Goods and Service Tax ('GST') registration was cancelled. The petitioner prays that the respondent be directed to restore the same.

6. The petitioner was registered with the GST authorities on 01.09.2018 and was assigned Goods and Service Tax Identification Number ('GSTIN'), 07CKZPA5219E1Z2.

7. On 25.08.2021, the respondent issued a Show Cause Notice, proposing to cancel the petitioner's registration for the following reasons:

"1 Issues any invoice or bill without supply of goods and/or services in violation of the provisions of this Act, or the rules made thereunder leading to wrongful availment or utilization of input tax credit or refund of tax."

8. The petitioner was also called upon to furnish a reply to the aforesaid notice, within a period of seven working days and to appear before the concerned Officer. Additionally, the petitioner's registration was suspended with effect from the date of the said notice, that is, with effect from 25.08.2021.

9. Although, the petitioner was called upon to appear before the concerned Officer, the aforesaid show cause notice neither indicated the venue nor the date and time when the petitioner was required to appear.

10. It is also apparent that, although an allegation was made that the petitioner had issued invoices and bills without supply of goods, in violation of the provisions of the Act, the show-cause notice did not mention any specific invoices or bills. It also did not provide any other details such as the period during which such invoices were issued, which could identify the bills alleged to have been raised without supply of goods.



11. The show-cause notice also alleged that the issuance of such bills led to wrongful availment or utilisation of the Input Tax Credit ('ITC') or refund of tax, however, it did not specify either the quantum of the ITC wrongfully availed or the quantum of refund of tax collected on account of bills issued without supply of goods.

12. Pursuant to the show-cause notice, the respondent proceeded to cancel the petitioner's GST registration by the impugned order. The said order did not specify any reasons for cancellation of the petitioner's GST registration except mentioning that no reply to the aforementioned show-cause notice was received.

13. It is important to note that the tabular statement set out in the said order indicated that no Central tax/ State tax/ UT tax/ Integrated tax or cess was ascertained as due and payable by the petitioner.

14. We are of the view that the said show-cause notice is bereft of the necessary particulars so as to enable the petitioner to respond to the same with any clarity. Further, the petitioner was not afforded any opportunity of being heard. This is because, even though the show-cause notice called upon the petitioner to appear for a personal hearing, it did not specify the date, time or the venue of such hearing.

15. The impugned order is also bereft of any reasons. It also does not mention particulars of the invoice or transactions which, according to the concerned authority, are contrary to or in violation of the provisions of the Act.

16. Mr. Rajeev Aggarwal, learned counsel appearing for the Revenue submits that the present petition is delayed as the petitioner has filed the



petition, more than two years after the impugned order cancelling the petitioner's GST registration, was passed. He also submits that the petitioner has not provided any clues as to the business or transactions carried out during the period of two years.

17. Although the petitioner has not approached this Court immediately after receiving the impugned order, we do not find that the delay is pernicious to the petitioner's claim for restoration of the GST registration. As is apparent from the above, the impugned order cancelling the petitioner's registration was passed in violation of the principles of natural justice and is, thus, liable to be set aside.

18. If the petitioner's GST registration is restored, the petitioner would be obliged to update its returns for the period, after its GST registration was cancelled. This would enable the Department, not only examine the business carried out by the petitioner but any and every transaction entered into by the petitioner. This would address Mr Agarwal's concern that the petitioner has not disclosed the transactions or the business carried out after its GST registration was cancelled.

19. In view of the above, the petition is allowed. The impugned order, cancelling the petitioner's GST registration is set aside. The respondent is directed to forthwith restore the petitioner's registration.

20. It is clarified that this order will not absolve the petitioner in complying with all provisions of the law. It also does not preclude the respondent from taking any further steps, if it is found that the petitioner has violated any of the provisions of law.

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



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22. The Central GST authorities are also directed to ensure that this order is complied with.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

DECEMBER 11, 2023/“SS”