



2024:DHC:4923-DB



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

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*Date of Decision: 03.07.2024*+ **W.P.(C) 8920/2024**

M/S. ABHISHEK APPLIANCE PVT. LTD

.....Petitioner

Through: Ms Anjali Jha Manish, Mr Priyadarshi Manish and Ms Divya Rastogi, Advocates.

Versus

ASSISTANT COMMISSIONER, CGST-DELHI NORTH  
COMMISSIONERATE & ORS.

.....Respondents

Through: Mr Atul Triapthi, SCC for CBIC and Mr V.K. Attri, 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, *inter alia*, impugning an order dated 06.03.2024 (hereafter *the impugned order*) passed by respondent no. 2 (Superintendent, Ward-73) whereby, the petitioner's GST Registration (GSTIN 07AAACA5800B1ZG) was cancelled.

2. The petitioner is also impugning the Show Cause Notice dated 14.02.2024 (hereafter *the impugned SCN*) pursuant to which the impugned order was passed.

3. Respondent no. 2 had issued the impugned SCN proposing to cancel the petitioner's GST Registration for the following reasons: -

“1. GST registration initiation of Cancellation u/s 29(2) of CGST/SGST Act, 2017 in compliance to the Anti Evasion Branch, Delhi North Commissionerate vide

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By: DUSHYANT  
RAWAL  
Signing Date: 06.07.2024

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Letter IV (Hqrs. Prev.) GST/N/12/2663/DGGI  
Chd./2022/24573 dated 06.02.2024 received on  
13.02.2024.”

4. The petitioner was further called upon to furnish a reply to the impugned SCN within a period of seven working days from the date of service of the notice and also to appear before the undersigned on 20.02.2024 at 10.52 AM. The petitioner’s GST Registration was also suspended with effect from 14.02.2024, in terms of the impugned SCN.

5. The petitioner contends that the impugned SCN is invalid for several reasons. First, that the same was issued only pursuant to a letter issued by the Anti Evasion Branch of Delhi, North Commissionerate and the proper officer has not independently applied his mind for ascertaining whether there was any reason for proposing cancellation of the petitioner’s GST registration. Second, it is stated that although the petitioner was granted seven working days to file a reply to the said notice, the petitioner was called upon to appear before the proper officer on 20.02.2024, prior to the expiry of the said period of seven days. It is contended that in this case, the hearing was evidently only meant to be an empty formality and not an effective opportunity for the petitioner to contest the proposed action. Third, it is stated that the impugned SCN does not set out either the name of the concerned officer before whom the petitioner was to appear, nor the venue at which the hearing was to take place.

6. We have heard the learned counsel for the parties.

7. The impugned SCN indicates it was issued on the basis of a letter dated 06.02.2024 received from the Anti Evasion. Admittedly, a copy of the said letter was provided to the petitioner. Thus, the reason for proposing to cancel the petitioner’s GST Registration is required to be ascertained from the said

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letter.

8. A plain reading of the said letter indicates that the Anti Evasion Branch had conducted an inspection at the petitioner's principal place of business [First Floor, B-21, GT Karnal Road, Mahendru Enclave, North-West Delhi, Delhi-110033], and found that the petitioner's principal place of business was non-existent. The *panchnama* drawn on 12.01.2024, which was also provided to the petitioner, indicates that during the course of inspection, the concerned officials had attempted to locate the petitioner, but no firm was located there. Enquiries were also made and it was found that the site where the principal place of business is stated to be located, was a site under construction where structure of five floors was partly constructed. The workers working at the site had informed the concerned officials that the building was under construction for more than two years and the concerned workers were not aware about the petitioner or its principal place of business.

9. The officials had also attempted to contact Mr. Ayush Gupta at his registered mobile number, who had been contacted and stated that he was out of station. He also informed that he had applied for the change of his principal place of business and that the same was rejected by the GST Officer.

10. The learned counsel for the petitioner submits that the petitioner's GST Registration not only reflected the principal place of business but also an additional place (F-385, All Floor, Main Wazirpur Road, Chand Bagh, East Delhi, Delhi-110094). However, no inspection was carried out at the said site.

11. The petitioner further claims that after the inspection on 12.01.2024, the petitioner had applied for a change of address on 06.02.2024. The same was allowed on 07.02.2024 and an amended certificate of registration was issued.

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12. It is clear from the above that the petitioner had changed its principal place of business, which was found to be under construction. The petitioner claims that it had applied for a change of its principal place of business prior to the inspection, however, the application was rejected.

13. A plain reading of the impugned order indicates that the petitioner's GST Registration was cancelled for the sole reason that the petitioner had not responded to the impugned SCN. It further indicates that the petitioner's GST Registration was cancelled with retrospective effect from 02.07.2017, being the date on which the registration was initially granted. The petitioner also contests the same on the ground that its principal place of business had been visited earlier by the officials on 23.01.2021 and an order freezing the petitioner's accounts was passed pursuant to the said visit.

14. It is submitted that it is clearly evidenced that the petitioner's business was being conducted from the principal place of business at least in the year 2021 and therefore, there was no occasion to cancel the petitioner's GST Registration, *ab initio*. The petitioner also has an explanation regarding it not being in existence at its principal place of business as the said site was under construction. Further, the petitioner also claims that the said site belongs to its promoter and therefore, there was no misrepresentation.

15. The learned counsel appearing for the respondent fairly submits that the petitioner ought to be given an opportunity to respond to the allegations and therefore, the impugned order may be set aside, and the parties be relegated to the show cause stage. The said submission commends to this Court.

16. In view of the above, the impugned order is set aside.

17. It is apparent from the record that the only reason for which the



petitioner's GST Registration is sought to be cancelled is that the petitioner has been found non-existent at its principal place of business. It is also apparent that the petitioner has sought to change its principal place of business more than once.

18. In the given circumstances, we consider it apposite to direct that the petitioner be permitted to file a response to the allegation regarding the non-existence at its principal place of business. It will be open for the petitioner to set out the complete details as to when it has ceased to carry on its business from its principal place of business and also to furnish sufficient evidence as to the place from where it continued to carry on its business.

19. The petitioner may file its response to the aforesaid allegation as well as place on record such documents on which the petitioner seeks to rely upon, before the proper officers, within a period of ten days from date. The petitioner shall be afforded a personal hearing before the Proper Officer on 24.07.2024 at 11.30 AM. The concerned officer shall take an informed decision after hearing the petitioner.

20. The petition is disposed of in the above terms. The pending applications also stand disposed of.

21. Copy of this order be given *dasti* under the signature of the Court Master.

**VIBHU BAKHRU, J**

**SACHIN DATTA, J**

**JULY 03, 2024**  
**RK**