



2024:DHC:4927-DB



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

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Date of Decision : 01.07.2024+ **W.P.(C) 8837/2024 & CM APPL. 35903-04/2024****PANKAJ MITTAL**

..... Petitioner

Through Mr.Kanhaiya Singhal, Mr.Ujwal
Ghai, Mr.Udit Bakshi, Mr.Bhwesh
Bhola, and Ms.Vani Singhal,
Advocates.

versus

UNION OF INDIA & ANR.

..... Respondents

Through Ms. Avshreya Pratap Singh Ruddy,
SPC and Ms.Usha Jamnal, Advocate
for UOI.
Mr.Shamshank Sharma, Sr SC for R2.

CORAM:**HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MR. JUSTICE SACHIN DATTA****VIBHU BAKHRU, J. (ORAL)**

1. Issue notice. Learned counsel for respondents accepts notice.
2. The petitioner has filed the present petition, *inter alia*, praying as under:-

“(a) Allow the present petition and issue a writ of certiorari or any other appropriate writ, order or direction to quash and set-aside the impugned Show Cause Notice dated 02.05.2023 bearing reference



no.ZA0705230061425 and subsequent Order of Cancellation of Registration dated 08.08.2023 bearing reference no. ZA070823045203S; AND

(b) Direct the Respondents to restore the GST registration of the Petitioner and its firm namely M/s Om Sai Enterprises bearing Registration no. 07AAQHP6494R1ZU ;”

3. The petitioner was registered under the Central Goods and Services Tax Act, 2017 (hereafter the *CGST Act*) on 23.02.2023 with effect from 28.01.2019 and claims that he had duly furnished the returns of his HUF (Pankaj Mittal HUF) concern – M/s.Om Sai Enterprises.
4. On 02.05.2023, the respondent issued a Show Cause Notice (hereafter the *impugned SCN*) calling upon the petitioner to show cause as to why his registration should not be cancelled within a period of 07 working days. The petitioner was also directed to appear before the concerned officer on 08.05.2023 at 04.00 pm. Further, the petitioner’s GST registration was suspended with effect from the date of the impugned SCN, that is, 02.05.2023.
5. Thereafter, the petitioner’s GST registration was cancelled on 08.08.2023 with retrospective effect from 28.01.2019.
6. The petitioner filed an application for recall of the order cancelling its GST registration along with an application for condonation of delay in filing the same.
7. The petitioner states that the delay in filing the said application was condoned. However, the petitioner’s application for recall of the order



cancelling its GST registration was not decided. The petitioner also sent a reminder, however, the same has also not elicited any response as yet.

8. The only reason stated in the impugned SCN proposing to cancel the petitioner's GST registration reads as under:-

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

9. It is apparent that the impugned SCN fails to meet the requisite standards of a show cause notice as it does not clearly specify the reasons as to why the petitioner's GST registration was proposed to be cancelled. Although it is alleged that the registration has been obtained by means of fraud, wilful misstatement or suppression of facts, it fails to disclose the precise nature of the fraud or; it does not specify which statement is alleged to be a wilful misstatement; and it does not disclose the facts that are allegedly suppressed.

10. The purpose of a show cause notice is to afford the noticee an opportunity to respond to the allegations. It is clear that such a notice, which does not specify the nature of the allegations is incapable of eliciting a meaningful response.

11. The order dated 08.08.2023 cancelling the petitioner's GST registration is also bereft of any reason. The contents of the same are reproduced below:-

“Order for Cancellation of Registration

This has reference to show cause notice issued dated 02/05/2023.



The effective date of cancellation of your registration is 28/01/2019

3. It may be noted that a registered person furnishing return under sub-section (1) of section 39 of the CGST Act, 2017 is required to furnish a final return in FORM GSTR-10 within three months of the date of this order.

4. You are required to furnish all your pending returns.

5. It may be noted that the cancellation of registration shall not affect the liability to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.”

12. The order for cancellation of registration merely refers to the impugned SCN which, as stated earlier, does not set out any intelligible reason for proposing to cancel the petitioner’s GST registration.

13. In view of the above, we consider it apposite to allow the present petition. The impugned SCN as well as the impugned order dated 08.08.2023 cancelling the petitioner’s GST registration are set aside.

14. The petitioner’s GST registration is directed to be restored forthwith.

15. Consequently, the petitioner’s application for revocation of the said order is rendered infructuous.

16. It is clarified that this order will not preclude the respondent from issuing a fresh show cause notice clearly setting out the reasons for proposing to cancel the petitioner’s GST registration, if the respondent is



desirous to do so.

17. It is also clarified that all rights and contentions of the parties are reserved. The present petition has been disposed of only on the basis that the impugned SCN pursuant to which the order cancelling the GST registration of the petitioner has been passed, did not specify any reasons.

18. Pending applications also stand disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 01, 2024

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Click here to check corrigendum, if any