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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 10.01.2024

+ W.P.(C) 331/2024 & CM APPL. 1505/2024
M/S EEN EEN SALES CORPORATION Petitioner

versus

ASSISTANT COMMISSIONER OF CENTRAL GOODS AND
SERVICE TAX, BADLI DIVISON, NORTH DELHI..... Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Pranay Jain, Advocate.

For the Respondent: Mr. Arnav Kumar, Senior Standing Counsel with
Mr. Chetanya Kapoor, Advocate

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Petitioner impugns show cause notice dated 03.08.2023 requiring the petitioner to show cause as to why the GST registration of the petitioner be not cancelled.
2. Petitioner is also aggrieved by the order dated 15.09.2023 whereby GST registration of the petitioner has been cancelled with effect from 04.02.2023.
3. Issue notice. Notice is accepted by learned counsel for the



respondent.

4. With the consent of the parties, petition is taken up today for final disposal.

5. Perusal of the show cause notice dated 03.08.2023 shows that same does not contain any reason for the proposed cancellation. The reason mentioned is *“Non compliance of any specified provisions in the GST Act or the Rules made thereunder as may be prescribed.”*

6. Apart from the above, there is no reason mentioned in the show cause notice. The reason specified in the show cause notice is mere extract of the provision of the statute. There are no details or even averment as to what is the non-compliance and what provision of the GST Act or the Rules that are alleged to have been not complied by the petitioner.

7. Further, we note that the show cause notice requires the petitioner to appear before the “undersigned” i.e. the person issuing notice on 10.08.2023 at 11.00 a.m. The notice does not even mention the name or designation of the authority that has issued the notice and as such is completely vague.

8. The impugned order dated 15.09.2023 is also bereft of any reasoning. It simply states that reference be had to the show cause notice dated 01.08.2023 and thereafter states that the effective date of cancellation of registration is 04.02.2023.



9. 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. Taxpayer's registration cannot be cancelled with retrospective date also covering the period when the returns were filed and the taxpayer was compliant without any cogent reason.

10. 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.

11. Further, the Show Cause Notice also does not put the petitioner to notice that the registration is liable to be cancelled retrospectively.



Accordingly, petitioner had no opportunity to even object to the retrospective cancellation of the registration.

12. In view of the above, impugned show cause notice dated 03.08.2023 and the order of cancellation dated 15.09.2023 are set aside. The GST registration of the petitioner is restored to its original number. Petitioner shall file the requisite returns in accordance with law.

13. 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.

14. 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.

15. The petition is disposed of in the above terms.

SANJEEV SACHDEVA, J

JANUARY 10, 2024
'rs'

RAVINDER DUDEJA, J