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* **IN THEHIGH COURTOF DELHIAT NEW DELHI**

Date of Decision: 20th August, 2025

\+ **W.P.(C) 11626/2025 & CM APPL. 47579/2025**

MANISH GOEL HUF .....Petitioner

Through: Dr. Chakit Singhal, Mr. Anant Bhushan, Mr. Manish Bhardwaj, Mr. Sandeep Gupta & Mr. Mohit Singhal, Advs. (9818613613)

versus

THE COMMISSIONER DELHI GOODS AND SERVICES TAX TRADE AND TAX DEPARTMENT NEW DELHI AND ORS. .....Respondents

Through: Ms. Anushree Narain, SSC with Mr. Naman Choula, Adv. (9625077466)

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE SHAIL JAIN

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. The present petition again reveals the confusion that is prevalent in various Show Cause Notices and orders issued/passed by the GST department in respect of cancellation of the Petitioner's GST Registration.

3. The brief facts of the case are that firstly, the Petitioner had obtained the GST identification No. 07AAQHM2514M1ZU w.e.f. 7th June 2019. On 30th March, 2021 an application for cancellation of the GST registration was filed by the Petitioner on the ground that the Petitioner was suffering from pancreatic illness. In response to the said application for cancellation of registration, a query was raised by the GST Department on 31st March, 2021

to the following effect:

> ***"Notice for Seeking Additional Information/ Clarification/ Documents relating to Application for Cancellation***
>
> *This is with reference to your Cancellation application filed vide ARN AA070321082555B Dated - 30/03/2021 The Department has examined your application and is not satisfied with it for the following reasons:*
>
> > *Cancellation Details - Others (Please specify) - As per the returns, there is mismatch of Rs,315576/between GSTRI and GSTR 3B.*
> > *2. A disproportionately large amount of ITC was availed for payment of tax. Please clarify the same.*
>
> *You are directed to submit your reply by 08/04/2021*
>
> *If no response is received by the stipulated date, your application is liable for rejection. Please note that no further notice/ reminder will be issued in this matter."*

4. No reply was filed by the Petitioner to the said notice. Thereafter, on 9th April, 2021the said application of the Petitioner was rejected on the ground that no reply was received. However, on the same date*i.e.*, on 9th April 2021, a Show Cause Notice was again issued by the GST Department on following ground:

> ***"Show Cause Notice for Cancellation of Registration***
>
> *Whereas on the basis of information which has come to my notice, it appears that your registration is liable to be cancelled for the following reasons:*
>
> > *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.*

> *You are hereby directed to furnish a reply to the notice within seven working days from the date of service of this notice.*
> *You are hereby directed to appear before the undersigned on 12/04/2021 at 12:46 PM*
> *If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex parte on the basis of available records and on merits.*
> *Please note that your registration stands suspended with effect from 09/04/2021."*

5. The Petitioner did not reply to the said Show Cause Notice and accordingly, *vide* order dated 20th May, 2021 the Petitioner's GST Registration was cancelled retrospectively w.e.f. 15th June, 2019.

6. The Petitioner being aggrieved by the said order of cancellation preferred an appeal against the same before the Appellate Authority which was also dismissed on the ground of delay *vide* order dated 20th May, 2025.

7. Today, the submission on behalf of the GST Department by Ms. Narain, ld SSC is that *vide* notice dated 31st March, 2021 in respect of the Petitioner's application for cancellation, it was alleged that the Petitioner had availed disproportionately large amount of Input Tax Credit. Thus, since the Petitioner had not filed any reply to the said notice the registration was liable to be cancelled with retrospective effect.

8. Heard the ld. Counsels for the parties and perused the documents placed on record. The Court has examined the matter. Clearly, the Petitioner himself wanted cancellation of its registration. However, the final order is of cancellation with retrospective effect. In the opinion of the Court both the orders passed by the GST Department show a complete non-application of the

mind by the concerned officer. On the one hand, the Petitioner's application for cancellation of registration is rejected and on the other hand, an order has been passed cancelling the registration retrospectively w.e.f. 15th June 2019.

9. The settled legal position is that if the SCN does not contemplate retrospective cancellation, the order cannot be passed directing retrospective cancellation. This position has been reiterated by this Court in various decisions including in ***'Subhana Fashion v. Commissioner Delhi Goods and Service Tax (W.P. (C) 12255/2024)', "M/S Balaji Industries v. The Principal Commissioner CGST Delhi North Commissionerate &Anr. (W.P.(C) 11913/2024)'*** and ***'Ridhi Sidhi Enterprises v. Commissioner of Goods & Service Tax (CGST), South Delhi &Anr. (W.P.(C) 8061/2024)'.***

10. The relevant portions of the decision in ***Subhana Fashion (supra)***is as under:

> *"10. It is apparent to note that non-payment of dues for a period of three months is not a prescribed ground for cancelling the petitioner's GST registration.*
>
> *11. It is also important to note that the impugned order sets out a tabular statement, which indicates that no amount has been determined as payable by the petitioner. The Central Tax, State Tax, Integrated Tax and Cess payable by the petitioner is reflected as, "0.0".*
>
> ***12. Apart from the above, the impugned order has also been passed in violation of principles of natural justice. Although the SCN called upon the petitioner to appear for a personal hearing at the appointed date and time, no such date or time was indicated. Thus, in effect the petitioner was not afforded an opportunity to be heard.***
>
> ***13. In view of the above, we set aside the impugned order. The respondents are directed to restore the***

<u>petitioner's GST registration forthwith."</u>

11. The relevant part of the judgment in *"**M/s Balaji Industries (Vipin Kumar)(Supra)**"* is as under:

> ***<u>"8. It is apparent from the above that the reasons as set out in the impugned order were not the reasons as set out in the SCN. Further, the SCN also did not propose cancellation of the petitioner's GST registration with retrospective effect from 11.09.2017.</u>***
>
> *9. The petitioner filed an appeal against the impugned order cancelling its registration. However, the same was rejected by the appellate authority by the order dated 14.05.2024 on the ground that the petitioner's appeal was barred by limitation.*
>
> *10. As noted above, the reason for which the petitioner's GST registration was cancelled was not reflected in the SCN. Although, the petitioner claims that it did not receive the SCN, it is apparent that even if it had, the same provided it no opportunity to respond to the reasons as set out in the impugned order cancelling its GST registration.*
>
> ***<u>11. As noted above, the petitioner is not aggrieved by the cancellation of its GST registration as it had closed down its business. The petitioner is, essentially, aggrieved by cancelling of its GST registration with retrospective effect.</u>***
>
> *12. The present petition was listed on 29.08.2024 and the learned counsel appearing for the respondents sought time to take instructions.*
>
> ***<u>13. The learned counsel for the respondents states that the respondents have no objection if the cancellation of the petitioner's GST registration is made operative with effect from the date of the SCN, that is, with effect from 24.05.2022.</u>***
>
> ***<u>14. In view of above, the present petition is disposed of with the direction that the petitioner's GST</u>***

> ***registration stands cancelled with effect from 24.05.2022 (being the date on which it was suspended) and not with retrospective effect from 11.09.2017.***
>
> *15. The impugned order is modified to the aforesaid extent."*

12. The relevant part of the judgment in '***Riddhi Siddhi Enterprises (supra)***' is as under:

> *"5. As is manifest from a reading of Section 29, clauses (a) to (e) of Section 29(2) constitute independent limbs on the basis of which a registration may warrant cancellation.* ***While the provision does enable the respondents to cancel that registration with retrospective effect, the mere existence or conferral of that power would not justify a revocation of registration. The order under Section 29(2) must itself reflect the reasons which may have weighed upon the respondents to cancel registration with retrospective effect. Given the deleterious consequences which would ensue and accompany a retroactive cancellation makes it all the more vital that the order be reasoned and demonstrative of due application of mind. It is also necessary to observe that the mere existence of such a power would not in itself be sufficient to sustain its invocation. What we seek to emphasise is that the power to cancel retrospectively can neither be robotic nor routinely applied unless circumstances so warrant. When tested on the aforesaid precepts it becomes ex facie evident that the impugned order of cancellation cannot be sustained.***
>
> *6. We note that while dealing with the right of the respondents to cancel GST registration with retrospective effect and the manner in which such*

power should be exercised in accordance with the statutory scheme was an issue which was noticed in Ramesh Chander vs Assistant Commissioner of Goods and Services Tax, Dwarka Division, CGST Delhi &Anr. The Court in Ramesh Chander vs Assistant Commissioner of Goods and Services Tax, Dwarka Division, CGST Delhi &Anr. The Court in Ramesh Chander taking note of the contours of Section 29 had held:-

> *"1-5…..*
>
> ***6. Neither the show cause notice, nor the order spell out the reasons for retrospective cancellation. In fact, in our view, order dated 13.07.2022 does not qualify as an order of cancellation of registration.***
>
> *7-8……*
>
> ***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. The 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 someperiod 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***

<u>was compliant.</u>

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. ***<u>Thus, a taxpayer's registration can be cancelled with retrospective effect only where such consequences are intended and are warranted.</u>***

<u>11. The show cause notice does not even state that the registration is liable to be cancelled from a retrospective date.</u>

<u>12. The petition is allowed. The impugned show cause notice dated 07.04.2022, order of cancellation dated 13.07.2022 and the order in appeal dated 29.12.2023 are accordingly set aside. GST registration of the petitioner is restored, subject to petitioner filing requisite returns upto date.</u>*"*

7. *We further take note of the judgment in Delhi Polymers vs Commissioner, Trade and Taxes &Anr. wherein the following was observed :-*

"1-3…..

<u>4. Show Cause Notice dated 04.09.2021 was issued to the Petitioner seeking to cancel its registration. However, the Show Cause Notice also does not put the petitioner to notice that the registration is liable to be cancelled</u>

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

5. Further, the impugned order dated 15.12.2021 passed on the Show Cause Notice dated 04.09.2021 does not give any reasons for cancellation. It, however, states that the registration is liable to be cancelled for the following reason "whereas no reply to the show cause notice has been submitted". However, the said order in itself is contradictory. The order states "reference to your reply dated 15.12.2021 in response to the notice to show cause dated 04.09.2021" and the reason stated for the cancellation is "whereas no reply to notice show cause has been submitted". The order further states that effective date of cancellation of registration is

01.07.2017 i.e., a retrospective date.

6. Neither the show cause notice, nor the order spell out the reasons for retrospective cancellation. In fact, in our view, order dated 15.12.2021 does not qualify as an order of cancellation of registration. On one hand, it states that the registration is liable to be cancelled and on the other, in the column at the bottom there are no dues stated to be due against the petitioner and the table shows nil demand.

7. Learned Counsel for the Petitioner submits that the said order reflected that the GST registration of petitioner stands cancelled from 01.07.2017 even though returns thereafter have been filed by the Petitioner.

8. He further submits that the petitioner is no longer interested in continuing the business and the business has been discontinued.

9. In terms of Section 29(2) of the Act, the

<u>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.</u>

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 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."

<u>8. In view of the aforesaid and in light of an abject failure on part of the authority to assign even rudimentary reasons for a retroactive cancellation, we find ourselves unable to sustain the order impugned.</u>"

13. On all these grounds, the impugned orders passed by the Appellate Authority as also the GST Department deserve to be set aside.

14. Both the application for cancellation of the registration dated 30th March, 2021 and the SCN dated 9th April 2021 deserves to be adjudicated afresh together and comprehensively by the GST Department.

15. Let a reply be filed by the Petitioner before 30th September, 2025 to the SCN dated 9th April 2021 including the notice dated 31st March,2021. A personal hearing shall be afforded to the Petitioner on the following email address & mobile no.:

Email: chakitsinghallawoffices@gmail.com

Mobile No.: 9818613613

16. After hearing the Petitioner and considering the replies, a comprehensive and reasoned order shall be passed.

17. All rights and contentions of the parties are left open.

18. The petition along with pending applications, if any, are disposed of in the above terms.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

AUGUST 20, 2025
dy/kk/msh