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

% *Date of Decision: 05.07.2023*

+ W.P.(C) 8842/2023 & CM APPL. 33423/2023 & CM APPL.
33424/2023

M/S METAL EDGE THROUGH ITS PROP
AYUSHIE BANSAL Petitioner

Through: Mr. Rajive Malhotra, Mr.
Shubham Bhalla & Mr.
Arshbir Singh, Adv.

Versus

SALES TAX OFFICER CLASS II
& ANR. Respondents

Through: Mr. Rajeev Aggarwal, ASC with
Ms. Vidisha Swarup, Mr. Prateek
Badhwar & Shaguftha Hameed,
Adv.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE AMIT MAHAJAN

VIBHU BAKHRU, J.

1. The petitioner (sole proprietor of the M/s Metal Edge) has filed the present petition, *inter alia*, impugning an order dated 07.10.2021 (hereafter '**the impugned order**') whereby the petitioner's GST registration was cancelled. The petitioner claims that the impugned order was issued by respondent no.1, who is not a 'proper officer' and therefore, has no jurisdiction to pass such orders. The petitioner also



impugns the show cause notice dated 23.09.2021 (hereafter ‘**the impugned show cause notice**’) issued under Section 73 of the Central Goods and Services Tax Act, 2017 (hereafter ‘**the CGST Act**’), whereby respondent no. 1 had proposed to raise a demand of ₹95,81,779.10/-. In addition, the petitioner also assails the order dated 02.11.2022 passed by the Appellate Authority whereby the petitioner’s appeal challenging the impugned order was rejected. In addition, the petitioner has also sought consequential prayers including a direction that its GST registration be restored and a fresh order be passed by the proper officer, after affording the petitioner an opportunity to be heard.

2. The petitioner’s challenge to the impugned order cancelling its GST registration and the show cause notice dated 23.09.2021 on the ground that the same were not issued by a proper officer is unmerited. By a notification dated 01.11.2019 (a copy of which has been handed over by the learned counsel for the petitioner), the Commissioner of Trade & Taxes has assigned the function under Section 73 & 74 of the CGST Act to be performed by a proper officer “to all the Assistant Commissioners and Goods and Services Tax Officer of this Department”. The learned counsel for the petitioner submits that the impugned order and the impugned show cause notice were issued by the Sales Tax Officer Class II, AVATO, Ward-67, Zone-6, Delhi (hereafter ‘**respondent no.1**’) and since the said officer is not of the rank of the Assistant Commissioner, he could not have exercised the jurisdiction of a proper officer.

3. Mr Aggarwal, the learned counsel appearing for the respondents



submits that respondent no.1 is a Goods and Services Tax Officer and therefore, the notification dated 01.11.2019 assigning the functions of a proper officer to the Goods and Services Tax Officer would also clothe the said officer with the jurisdiction to issue the impugned show cause notice under Section 73 of the CGST Act as well as to pass the impugned order cancelling the petitioner's registration.

4. Mr Malhotra, the learned counsel for the petitioner contends that the impugned show cause notice under Section 73 of the CGST Act is without jurisdiction, as the Central Goods and Service Tax Authorities in Chandigarh have already commenced investigation in respect of the petitioner. He contends that during the course of investigation conducted by authorities in Chandigarh, the entire record of the petitioner concern was seized by respondent no.2. Further, the petitioner was also called by respondent no.2 for recording the statement. He submits that, therefore, in terms of Section 6 of the CGST Act, it is not open for respondent no.1 to commence parallel proceedings.

5. The said contention is unpersuasive. It is the petitioner's case that the records of the petitioner were called by respondent no.2 in connection with the investigation into the affairs of one Mr. Rajneesh Bansal. It is not the case of the petitioner that the investigation was commenced against the petitioner. We are also of the view that the petitioner is not precluded from canvassing her contention that the proceedings in terms of the impugned show cause notice are not maintainable, before the concerned officer. The petitioner is not precluded from raising this objection in response to the impugned show



cause notice. Needless to state that if any such objection is raised, the concerned officer shall examine the same.

6. Insofar as the cancellation of the GST registration is concerned, the learned counsel does not press the issue before this Court. He reserves the right, if any, to approach the authorities once again in this regard.

7. In view of the above, we find no ground to entertain the present petition. The petition is, accordingly, dismissed. All pending applications are also disposed of.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

JULY 5, 2023

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