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

% *Date of Decision: 13.10.2023*

+ **W.P.(C) 13596/2023 & CM APPL. 53641/2023**

VIJAY SALES ENTERPRISES

..... Petitioner

Through: Mr. Pulkit Verma & Mr. Piyush
Pruthi, Advs.

versus

SUPERINTENDENT RANGE-25, GST DIVISION

New Delhi

..... Respondent

Through: Mr. Atul Tripathi & Mr. V. K. Attri,
Advs.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE AMIT MAHAJAN

VIBHU BAKHRU, J.

1. Issue notice.
2. The learned counsel for the respondent accepts notice.
3. The petitioner has filed the present petition impugning an order dated 02.12.2022 (hereafter '**the impugned order**') passed by the respondent cancelling the petitioner's GST registration with retrospective effect from 12.12.2019 (the date on which the registration



was granted).

4. The petitioner had filed an application dated 01.08.2022 praying that the GST registration be cancelled with effect from 31.07.2022 as it had discontinued its business operation. Pursuant to the said application, the concerned officer issued a notice dated 03.08.2022 calling upon the petitioner to furnish certain documents, which the petitioner failed to do. Thereafter, on 26.08.2022, the concerned officer passed an order rejecting the petitioner's application for cancellation of the GST registration on the ground that the petitioner had not provided the relevant documents.

5. Thereafter, the concerned officer issued a show cause notice dated 30.08.2022 (hereafter '**the Show Cause Notice**') calling upon the petitioner to show cause as to why its registration should not be cancelled. The reason proposing to cancel the petitioner's GST registration as set out in the Show Cause Notice notice reads as: "*In case, Registration has been obtained by means of fraud, wilful misstatement or suppression of facts.*" The petitioner was called upon to furnish a reply within a period of seven working days from the date of the Show Cause Notice and was directed to appear before the concerned officer on 07.09.2022 at 03:15 PM.

6. The petitioner responded to the Show Cause Notice on 07.09.2022 denying the allegation that he was involved in any fraud or misstatement and suppression of facts. The petitioner also requested that the date of hearing be postponed in order to enable him to attend



the same.

7. Thereafter, the concerned officer passed the impugned order cancelling the petitioner's GST registration with retrospective effect.

8. It is at once clear that the impugned order has been passed in violation of the principles of natural justice. The Show Cause Notice did not specify the allegations pursuant to which the petitioner's GST registration was proposed to be cancelled. It merely stated that "*In case, Registration has been obtained by means of fraud, wilful misstatement and suppression of facts*" and did not specify what was the alleged fraud committed by the petitioner; the misstatement allegedly made; or the facts allegedly suppressed.

9. The Show Cause Notice was incapable of eliciting any meaningful response and the petitioner had denied that it was involved in any fraud or made any misstatement and suppressed any facts.

10. The impugned order is also not informed by reason, it merely states that the reply submitted by the petitioner was unsatisfactory. Neither the Show Cause Notice nor the impugned order provides any clue as to why the petitioner's GST registration was cancelled. The Show Cause Notice and the impugned order are liable to be set aside. It is also relevant to note that the Show Cause Notice did not propose that the petitioner's registration would be cancelled from the date it was granted. Thus, the petitioner had no opportunity to object to cancellation of his GST registration with retrospective effect.



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11. In view of the above, the impugned order and the Show Cause Notice are set aside.

12. The petition is allowed in the aforesaid terms.

13. It is clarified that this order shall not preclude the authorities from instituting fresh proceedings in accordance with law, in the event that there are any reasons to do so.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

OCTOBER 13, 2023
Ch

