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

% *Date of Decision: 10.11.2023*

+ **W.P.(C) 14814/2023 & CM APPL. 58919/2023**

M/S SAI ALUMINIUM EXIM Petitioner
Through: Mr. Pranay Jain & Mr. Karan,
Advs.
versus

PR COMMISSIONER OF GOODS AND SERVICE TAX NORTH
DELHI Respondent
Through: Mr. Arnav Kumar, SSC with Mr.
Aranya Sahay & Mr. Gurdas
Khurana, Adv.

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, *inter alia*, praying as under: -

- “a) issue a writ of mandamus or any other appropriate writ or direction to directing respondent to revoke the GST registration of the petitioner.
- b) issue a writ of certiorari or any other appropriate writ or direction to quash and set aside the order dated



14.09.2023 issued by the respondent cancelling the registration of the petitioner.”

4. The petitioner essentially seeks to challenge the cancellation of its GST registration.

5. The petitioner was registered with the GST authorities with effect from 01.07.2017 (GSTIN 07BBZPS9347B1ZX). The petitioner claims that it had changed its principal place of business in the year 2022 and applied on 11.06.2022 for amendment in its GST registration to reflect the change in its principal place of business. The petitioner claims that it had not received any show cause notice proposing to reject its application for the amendment. Notwithstanding the same, the petitioner’s application was rejected by an order dated 09.05.2023 on the ground that the requisite information was not submitted.

6. Thereafter on 01.09.2023, a Show Cause Notice (hereafter ‘**the SCN**’) was issued to the petitioner proposing to cancel its GST registration for the following reasons: -

“1 Section 29(2)(e)-registration obtained by means of fraud, wilful misstatement or suppression of facts”

7. The petitioner was called upon to appear before the concerned officer on 06.09.2023 and to file a reply to the SCN within a period of seven working days. The petitioner’s GST registration was also suspended with effect from 01.09.2023.

8. The SCN did not reflect any specific reason for cancelling the petitioner’s GST registration, it also did not specify the alleged fraud



committed by the petitioner or the wilful misstatement made by him or any facts that were allegedly suppressed by the petitioner. However, the petitioner's GST portal reflected a letter addressed by the Assistant Commissioner, Anti Evasion Branch, *inter alia*, stating that certain tax payers were found to be non-existent and requested for initiation of proceedings in that regard. The petitioner's name featured at serial no.10 of the said list provided by the Anti Evasion Branch.

9. It is pointed out that the said letter also enclosed therewith the copies of visit reports, panchnama, geotag photo of principal place of business etc. however, the relevant documents related to the petitioner were not forwarded to the petitioner.

10. It appears from the above – although not specifically stated in the SCN – that the petitioner's GST registration was proposed to be cancelled on the basis that it was not found existent at the principal place of business. Thereafter, the petitioner's GST registration was cancelled by an order dated 14.09.2023 (hereafter '**the impugned order**') that does not mention any reason whatsoever. It merely states that the impugned order has been passed with reference to the SCN. It is also material to note that the petitioner's GST registration got cancelled with the retrospective effect from 01.07.2017 even though the SCN did not propose the retrospective cancellation of the petitioner's GST registration.

11. It is contended on behalf of the petitioner that the impugned order is liable to be set aside as the petitioner has not issued any prior



notice of inspection of its premises. He also relies on the decision in the case of *Bimal Kothari v. Assistant Commissioner (DSGST) & Ors.*: W.P.(C) No.9207/2019 decided on 01.11.2022 in support of the said contention. In addition, he submitted that the impugned order does not set out any reasons. It is material to note that the petitioner has also filed an application for revocation of the cancellation of the registration and the said application is pending.

12. The petitioner's contentions that the SCN did not specify any reason for proposing to cancel the petitioner's GST registration, and that the impugned order cancelling its registration is void as not informed by reason, is merited. The impugned order cancelling the petitioner's GST registration does not reflect any reason for the same. The petitioner's contention that it was required to issue a notice to the petitioner prior to any inspection is merited, however, it is the petitioner's case that he had shifted its principal place of business. Thus, even if a prior notice of inspection had been issued, no effective purpose would be served as admittedly the petitioner is not carrying on its business from its stated place of business. The petitioner's grievance stems from rejection of its application for amendment of the GST registration. According to the petitioner, it had shifted its principal place of business and had duly informed the GST authorities of the same by filing a requisite application on 11.06.2022. Thus, the said application was rejected almost a year after (that is by an order dated 09.05.2023). As noted above, the petitioner's request for amendment was rejected on the ground that the petitioner had failed to



provide the requisite information.

13. In the aforesaid circumstances, we consider it apposite to set aside the order dated 09.05.2023 whereby the petitioner's application for amendment of the GST registration was rejected.

14. The petitioner is at liberty to file all requisite documents and information as required by the GST authorities before the concerned officer in support of its application for revocation of cancellation of GST registration. The concerned officer shall satisfy that the petitioner is carrying on the business at its principal place of business as claimed by the petitioner. In the event the concerned officer is so satisfied, the order cancelling the petitioner's GST registration shall be revoked.

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

VIBHU BAKHRU, J

AMIT MAHAJAN, J

NOVEMBER 10, 2023

Ch

