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

+ W.P.(C) 6332/2024

R.A. INTERNATIONAL (THROUGH ITS PROPRIETOR RAKESH
MITTAL) Petitioner

Through: Mr. Vineet Bhatia, Mr. Aamnaya
Jagannath Mishra & Mr. Bipin Punia,
Advocates

versus

COMMISSIONER OF CGST, DELHI
WEST AND ORS. Respondents

Through: Mr. Harpreet Singh, Senior Standing
Counsel with Ms. Suhani Mathua,
Mr. Jatin Kumar Gaur & Ms.Pritika
Nagpal, Advocates
Mr. Rajat Kumar Kanaujiya,
Superintendent
Mr. Rakesh Garga, Assistant
Commissioner
Mr. Shubham Tyagi, SSC, CBIC.

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

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07.05.2024

1. Petitioner impugns Show Cause Notice dated 22.04.2024, whereby, the GST Registration of the petitioner has been suspended w.e.f. 22.04.2024. The Show Cause Notice for cancellation of GST registration has been issued on the following ground “1 Section 29(2)(e)-registration obtained by means of fraud, wilful misstatement or suppression of facts”.

2. Mr. Rajat Kumar Kanaujiya, the Superintendent who is present in Court and is the Proper Officer submits that the reasons that are mentioned in the Show Cause Notice are from a drop down menu in the system. He



further states that the queries or remarks that are input by the Proper Officer do not get reflected in the Show Cause Notice, however, they continue to show on the portal accessible to the Officer. He further submits that the name and designation of the Officer issuing the Show Cause Notice is sometimes reflected and sometimes is not reflected on account of a technical glitch in the system.

3. We notice that the Show Cause Notice dated 22.04.2024 does not contain any reasons or details in respect of the ground on which cancellation of GST registration is sought to be done. The Show Cause Notice requires the petitioner to appear before the undersigned of the Show Cause Notice on 29.04.2024 at 3:15 PM. However, neither the name nor the designation or the office of the issuer of the notice is reflected in the Show Cause Notice.

4. We further note that the Show Cause Notice states that the GST registration shall stand suspended w.e.f 22.04.2024 i.e. the date of Show Cause Notice. Mr. Kanaujiya, the Proper Officer, who is present in court, states that the said line that the registration is suspended, is automatically reflected in the notice by the portal. He further states that there is only an option of clicking check boxes on the portal and on clicking the box, the date of Show Cause Notice is taken as the date of suspension.

5. Reference may be had to the Section 29 (2) of the Central Goods & Service Tax Act, 2017 (hereinafter referred as 'the Act') which *inter alia* stipulates that during the pendency of the proceedings relating to cancellation of registration, the Proper Officer may suspend the registration for such period and such manner as may be prescribed.



6. Reference may also be had to Rule 21-A (2) of the Central Goods & Service Tax Rules, 2017, which *interalia* stipulates that where a Proper Officer has reason to believe that the registration of a person is liable to be cancelled under Section 29 of the Act, then he may suspend the registration of such person with effect from the date to be determined by him.

7. Since the date of suspension of the registration is automatically determined by the portal as the date of the notice and there is no option with the proper officer to specify a different date, apparently, there is no conscious application of mind by the Proper Officer deciding to suspend the registration from the date of issuance of the Show Cause Notice.

8. In view of the contention that there are certain automatic generation of input into the Show Cause Notice on account of the manner in which the system has been designed, we deem it expedient to direct a senior competent officer of the GSTN Network to file an affidavit indicating the manner in which the portal functions particularly in respect of the following:-

- i) the reasons that are reflected in the Show Cause Notice;
- ii) the options available to the Proper Officer to incorporate additional reasons or grounds in support of the reasons;
- iii) the name, designation and personal individual personal signature of the Proper Officer being affixed on the Show Cause Notice as also reflected in the Show Cause Notice to



the assessee;

iv) the information that is made available to the assessee once the Show Cause Notice is uploaded on the portal;

v) the date and manner in which the registration is suspended, i.e: as to whether the same is automatically reflected in the portal or an option is given to the Proper Officer to determine a particular date and manner of suspension of registration as required under Section 29 and Rule 21 referred to above.

9. Let the affidavit be filed within one week.

10. List on 22.05.2024.

SANJEEV SACHDEVA, J

RAVINDER DUDEJA, J

MAY 7, 2024/vp

