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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision :11.07.2024

+ W.P.(C) 8964/2024, CM APPL.36626/2024 (Exemption) & CM APPL.36627/2024 (Stay)

M/S M.S. RAINBOW PRODUCTSPetitioner

Through: Advocate (appearance not given)

versus

COMMISSIONER OF CENTRAL
GOODS AND SERVICES TAX AND OTHERSRespondents

Through: Mr. Shashank Sharma, Sr. Standing
Counsel.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE SACHIN DATTA

VIBHU BAKHRU, J. (ORAL)

1. Issue notice.
2. The learned counsel for the respondents accept notice.
3. The petitioner has filed the present petition impugning an order dated 19.12.2023 (hereafter *the impugned cancellation order*), whereby the petitioner's GST registration was cancelled and an order dated 27.05.2024, whereby the petitioner's application for condonation of delay in filing an application for revocation of the impugned cancellation order was rejected.
4. The petitioner was registered with the GST Authorities and was assigned the Goods and Services Tax Identification Number – GSTIN 07AAOFM4020C1ZO. The petitioner had defaulted in filing its returns for a consecutive period of six months.



5. In view of the above, the Proper Officer issued a show cause notice dated 13.11.2023 (hereafter *the SCN*) calling upon the petitioner to show cause as to why its GST Registration not be cancelled on account of failure to furnish the returns under Section 39 of the Central Goods and Services Tax Act, 2017 (hereafter *the CGST Act*) for a continuous period of six months. The petitioner was called upon to respond to the said SCN within a period of thirty days from the date of the SCN and was directed to appear before the Proper Officer on 11.12.2023. The petitioner's GST Registration was also suspended on the same date – 13.11.2023.

6. The petitioner did not respond to the SCN. Resultantly, by an order dated 19.12.2023, the petitioner's GST Registration was cancelled with effect from 01.04.2023.

7. The petitioner made an application for revocation of the impugned cancellation order, whereby its registration was cancelled. The petitioner stated that there was some dispute with its accountant and, therefore, it was unable to file the application for revocation of the impugned cancellation order cancelling the petitioner's GST Registration. He also undertook to file its GST return and to pay all its dues, if any, within a week of the respondents restoring its GST Registration. The Proper Officer dismissed the petitioner's application as it was filed beyond the stipulated period of ninety days.

8. The petitioner does not dispute that he has defaulted in compliance with the provisions of Section 39 of the CGST Act and had not filed the returns as required. However, he has set out an explanation for the same and undertakes that all returns will be filed and outstanding dues will be paid.

9. In *TVL. Suguna Cutpiece Centre v. Appellate Deputy Commissioner*



(ST) (GST), SALEM: 2022 (61) G.S.T.L. 515 (Mad), the Hon'ble High Court of Madras has considered import of the actions of cancellation of the Taxpayer's GST Registration and noticed that department's object cannot be to preclude taxpayers from carrying on their business. This Court has also taken a similar view in *M/s Rakesh Enterprises v. The Principal Commissioner Central Goods and Services Tax & Ors.: Neutral Citation No. 2023/DHC/001018*.

10. In view of the above, we consider it apposite to allow the present petition and direct the respondents to restore the petitioner's GST Registration. However, this is subject to the condition that the petitioner shall immediately within a period of one week of the petitioner's GST Registration being restored, file the necessary returns and pay all its dues along with interest.

11. In the event, the petitioner does not comply with the aforesaid undertaking, the respondent shall proceed to cancel the petitioner's GST Registration.

12. It is also clarified that this would not preclude the respondent authorities from initiating any other action for non-compliance with the statutory provisions or recovery of any amount that may be due.

13. The petition is disposed of in the aforesaid terms. Pending applications are also disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

JULY 11, 2024

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