2023/DHC/001655

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

% *Date of Decision: 01.03.2023*

\+ **W.P.(C) 17439/2022 and CM No. 10005/2023**

BANSAL STEELS ..... Petitioner
Through: Mr Rakesh Kumar, Advocate.

versus

THE COMMISSIONER, CENTRAL GOODS AND SERVICE TAX ..... Respondent
Through: Mr R. Ramachandran, Senior Standing Counsel.

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

VIBHU BAKHRU, J.

1. The petitioner has filed the present petition, *inter alia*, praying that directions be issued to the respondent to rectify the order of cancellation dated 12.02.2019 to the extent that the petitioner's GST registration has been cancelled with effect from 01.02.2018.

2. The petitioner had applied for cancellation of its GST registration for the first time on 04.12.2018 with effect from that date, stating that the reason for seeking such cancellation was that it had discontinued/closed its business.

3. The said application was rejected by an order dated 11.02.2019 on the ground that the Central Tax Liability entered was incorrect.

4. The petitioner states that it filed the 'Nil' GST return for the period after 04.12.2018 till the January 2019, to comply with the provisions of law as its application seeking cancellation of its GST registration with effect of 04.12.0218, was rejected. The petitioner also immediately filed a second application for cancellation of the registration on 11.02.2019 requesting that the registration be cancelled from 01.02.2018. This was an apparent error as the petitioner had continued to file its returns till January 2019. According to the petitioner, it had, by an inadvertent error, entered 01.02.2018 as the date from which cancellation of registration was sought, instead of 01.02.2019.

5. The petitioner's second application for cancellation was accepted and its registration was cancelled by order dated 12.02.2019 with effect from 01.02.2018 as sought for by it.

6. It is obvious that there was an apparent error in the petitioner's application and consequently, in the order dated 12.02.2019. Notwithstanding the same, the respondent has not acceded to the petitioner's request to rectify the same. This has led the petitioner to file the present petition.

7. By an order dated 08.04.2022 passed in ***RPG Polymers v. Commissioner of DGST Delhi and Anr.: W.P.(C) 5849/2022***, the Co-ordinate Bench of this Court had clarified that such errors, which are apparent on the face of the record, are required to be rectified under Section 161 of the Central Goods and Services Tax Act, 2017.

8. Mr Ramachandran, learned counsel appearing for the respondent, submits that there may be something more than that which meets the eye, and the Department is apprehensive regarding the conduct of the petitioner. He submits that since the petitioner had disclosed its reason for seeking cancellation in the first application dated 04.12.2018 as closure of business, there was no question of the petitioner filing any returns for the period thereafter. Second, he submits that the petitioner's request for rectification of the order dated 12.02.2019 is highly belated.

9. He submits that it is the petitioner's case that it had discovered the said error on the being reminded by one of its customers (Om Enterprises bearing GSTN No. 07AABFO2970Q1ZR). But verification of the details of Om Enterprises (GSTN No. 07AABFO3970Q1ZR) reveals that the said firm is non-existent.

10. The petitioner has explained that the allegation that M/s Om Enterprises is non-existent is erroneous. There is an apparent error in this regard as well because the correct GSTN number of M/s Om Enterprises is 07AABFO2970Q1ZR and not 07AABFO3970Q1ZR. Mr Kumar, learned counsel for the petitioner, also drew our attention to a print out from the website of the GST department, which reflects the status of M/s Om Enterprises as active.

11. *Prima facie,* we do not find any merit in the contention of the respondent that there are any grounds to doubt the petitioner's statement that its request for cancellation of GST Registration with

effect from 01.02.2018 was an apparent error. It is apparent that the petitioner had meant to seek cancellation of the registration with effect from 01.02.2019 and had filed returns till January 2019.

12. However, considering that respondent has expressed some apprehension, we consider it apposite to set aside the order dated 12.02.2019 and direct the respondents to consider the petitioner's application dated 11.02.2019 afresh by considering the date from which the registration was requested to be cancelled as 01.02.2019 instead of 01.02.2018.

13. The concerned Officer of the respondent shall process the said application within a period of two weeks from today.

14. The petition is allowed in the aforesaid terms. The pending application is also disposed of.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

MARCH 1, 2023
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