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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of Decision: 05th October, 2023*

+ **W.P.(C) 11738/2023 & CM APPL. 45836/2023**

MR SANAL P

..... Petitioner

Through: Mr. Aayush Agrawal,
Advocate.

versus

UNION OF INDIA & ANR.

..... Respondents

Through: Mr. Ankur Yadav, Senior Panel
Counsel for UOI/Respondent
No. 1.

Mr. Anurag Ojha, Senior
Standing Counsel with
Mr. Vipul Kumar, Advocate.

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*, impugning a Show-Cause Notice (hereafter '**the SCN**') dated 20.04.2022, calling upon the petitioner to show cause as to why his GST registration should not be cancelled.

2. The petitioner also impugns an order dated 15.11.2022, cancelling its registration pursuant to the aforesaid SCN.

3. The petitioner had filed an application for revocation of



cancellation of his GST registration, however, that application has not been decided as yet.

4. This petition was listed on 05.09.2023. On the said date, a statement was made by Mr Ohja, learned counsel appearing for Respondent No. 2, that an order had been passed pursuant to the petitioner's application for revocation of the order cancelling his GST registration, and that the petitioner had not placed the copy of the same on record.

5. Mr. Anurag Ojha now states that his statement, as recorded in the order dated 05.09.2023, is incorrect and that the petitioner's assertion that no order has been passed in his application seeking revocation of the order cancelling his GST registration, is correct.

6. The proper officer had issued the SCN proposing to cancel the petitioner's GST registration for the following reasons:

"In case, Registration has been obtained by means of fraud, wilful misstatement or suppression of facts."

7. The petitioner was called upon to respond to the SCN within a period of seven working days and to appear before the proper officer on 25.04.2022.

8. The petitioner's GST registration was also suspended with effect from the said date; that is, with effect from 20.04.2022.

9. As is apparent, the SCN did not set out any specific reason or allegation on the basis of which the proper officer proposed to cancel the petitioner's registration. Although, it is alleged in the SCN that the registration has been obtained by means of fraud, wilful misstatement



or suppression of facts, it does not provide any clue as to the alleged fraud committed by the petitioner; the alleged wilful misstatement made by him; or the material facts allegedly suppressed by him.

10. It is well-settled that a show-cause notice must clearly state the reasons for proposing any adverse action to enable the noticee to respond to the same.

11. The SCN was incapable of eliciting any meaningful response as it provided no intelligible reasons for proposing cancellation of the petitioner's GST registration.

12. The petitioner responded to the SCN on 22.04.2022. The petitioner stated that he was dealing in Areca nuts and he purchases the goods from various states. He claimed that he is a genuine and honest dealer and had filed his returns regularly. He also made the grievance that blocking of his Input Tax Credit was violative of his fundamental rights under Article 19(1)(g) of the Constitution of India to carry on business.

13. Considering that the SCN had not set out any specific reason for proposing to cancel the petitioner's registration, the petitioner's response could not be specific either.

14. The petitioner's GST registration was cancelled, with effect from 09.02.2022, by an order dated 15.11.2022, setting out the following reason for same:

"Non existent. Cancellation initiated in terms of Letter F.No. IV (Hqrs. Prev.) GST-N/12/2483/E-way22/2022 issued by Anti Evasion Branch. No Noc received from the Anti Evasion Branch"



15. It is apparent from the above that the petitioner's GST registration was cancelled on account of a letter received from the Anti-Evasion Branch and for the reasons that No Objection Certificate had not been received from the said Branch.

16. There was no such allegation in the SCN to the aforesaid effect. Further, the letter of the Anti-Evasion Branch, which is mentioned as a reason for the cancellation of the petitioner's GST registration, also did not form a part of the SCN. It is also trite law that the authority which is entrusted with the power to do a particular act under the Statute has to independently apply its mind and cannot do so on the dictates of another authority.

17. However, it is not necessary for this Court to further examine that question as it is apparent that the order of cancellation is based on reasons which do not form part of the SCN.

18. The order dated 15.11.2022 is thus void as having been passed in violation of the principles of natural justice.

19. The SCN is also not sustainable for the reason that it fails to meet the necessary standards required of a show-cause notice.

20. The petitioner filed an application seeking revocation of the order dated 15.11.2022. Pursuant to the said application, the proper officer issued a Show-Cause Notice dated 16.12.2022, setting out the following reasons for proposing to reject the petitioner's application for revocation of the cancellation order:

“Reason for revocation of cancellation - Others (Please specify)



- You are required to join the investigation by Anti Evasion branch of CGST Delhi North, & you have to obtain the NOC vertificate for the same & provide KYC documents, reconciliation statement etc. for your claim.”

21. It is apparent from the above that the petitioner’s application was proposed to be rejected on the ground that he had not joined the investigation instituted by the Anti-Evasion Branch.

22. The petitioner responded to the Show-Cause Notice dated 16.12.2022 by a letter dated 22.12.2022, controverting the allegation and stating that he had joined investigations; the same were completed in May, 2022; and nothing adverse was found.

23. The proper officer has not passed any order in the petitioner’s application as yet, although, almost more than ten months have lapsed since the petitioner had responded to the said Show-Cause Notice.

24. For the reasons stated above, the order cancelling the petitioner’s GST registration cannot be sustained. The SCN as well as the order dated 15.11.2022 cancelling the petitioner’s GST registration, are set aside.

25. The respondent is forthwith directed to restore the petitioner’s GST registration.

26. However, it is clarified that this order would not preclude the respondent from initiating any fresh proceedings for cancellation of the petitioner’s registration *albeit* in accordance with law if there are good reasons for taking such action.



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27. The petition is allowed in the aforesaid terms.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

OCTOBER 5, 2023
"SS"