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

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Date of Decision: 22.05.2023

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W.P.(C) 7023/2023

M/S ROXY ENTERPRISES

..... Petitioner

Through: Mr. Akhil Krishan Maggu, Mr.
Vikas Sareen, Ms. Maninder Kaur &
Ms. O Maggu, Advs.

Versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Raj Kumar, CGSC with Ms.
Neetu Singh, Adv. for R1.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE AMIT MAHAJAN

VIBHU BAKHRU, J.

1. Issue notice.
2. The learned counsel appearing for the respondents accepts notice.
3. The petitioner has filed the present petition challenging the show cause notice dated 25.01.2023 as well as the order dated 14.02.2023 (hereafter 'the impugned order') passed by the concerned authority, pursuant to the said show cause notice.
4. The petitioner is an individual and carries on his business as a sole proprietor under the name M/s Roxy Enterprises. The petitioner claims that it carries on the business for exporting automobile parts and other assorted hardware products from his place of business located at

Ground Floor, House No.316, Old Plot No.29, Shop No. Pvt-3, Kh. No. 842, Street No.26, Onkar Nagar, Tri Nagar, Delhi – 110035 (hereafter ‘the Premises’). The petitioner was granted GST registration in the year 2022 (GST No. 07EWYPR4862M1Z8).

5. The respondent issued a show notice dated 25.01.2023 calling upon the petitioner to show cause as to why his GST registration should not be cancelled. The reason for proposing the aforesaid adverse action was stated to be: “Others”. The petitioner was directed to be appear before the concerned officer on 31.01.2023 at 12.30 p.m. He was also directed to furnish a response to the said notice within a period of seven working days.

6. The petitioner responded to the said show cause notice. He submitted that apparently the notice was issued to him due to a delayed response to summons issued by the Deputy Commissioner, Anti-Evasion, CGST Delhi, North and not providing documents in time. He stated that he had all the relevant documents in his possession and if there was any oversight on his part, he would take full responsibility for the same. The petitioner claims that he went to the concerned office but was not afforded a hearing.

7. The concerned officer passed the impugned order cancelling the petitioner’s registration. The reason indicated in the said order for the said action reads as under:-

“1. The tax payer is non-existing as per Deputy Commissioner, Anti Evasion, CGST Delhi North Letter F. No.1V(Hqrs. Prev) GST-N/12/2800/Gr-2/2022/19846

dated 04.11.2022. Cancellation of Registration is initiated as per the Section 29(2) of the CGST Act, 2017 read with Rule 21 of CG&ST Rules, 2017 2017 read with Rule 21 of CG&ST Rules, 2017.”

8. The petitioner contends that the said reason as stated in the impugned order is *ex facie* erroneous as the petitioner continues to carry on his business from the Premises, which is also registered as his principal place of business. He further states that the Rule 25 of the Central Goods and Services Tax Rules, 2017 was not complied with as the petitioner had no notice of any inspection, if at all, carried out at the Premises.

9. It is apparent from the above that the show cause notice is inadequate and fails to meet the requisite standards of a show-cause notice. The impugned show cause notice does not disclose any discernible reason for proposing adverse action against the petitioner. The purpose of a show-cause notice is to apprise the noticee regarding the reason for the proposed action to enable him to respond to the same. This in turn enables the concerned authority to make an informed decision. No adverse order could be passed against the petitioner without informing the petitioner of reasons for the same and affording him an opportunity to respond to the same. Thus, the impugned order dated 14.02.2023 is void as having been passed in violation of the principles of natural justice.

10. In our view, neither the show cause notice dated 25.01.2023, nor the impugned order can be sustained.

11. Since it is now clear that the respondents proposed to cancel the

petitioner's registration on the assumption that he was not-existent at his principal place of business, this Court considers it apposite to set aside the impugned order and remand the matter to the concerned officer to consider afresh after affording the petitioner a full opportunity to be heard.

12. Ms. Mathur requests this Court that the time of hearing be fixed to avoid any delay.

13. The petitioner would be at liberty to file a response to the reasons as stated in the impugned order along with all documents that the petitioner seeks to rely on. He shall appear before the concerned officer at 10.30 a.m. on 26.05.2023 along with a hard copy of his reply.

14. The concerned officer shall consider the petitioner's objections, including the objection that the relevant Rules have not been complied with, and pass a speaking order within a period of two week from today. The petition is disposed of in the aforesaid terms.

15. *Dasti* under the signature of the Court Master

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VIBHU BAKHRU, J

AMIT MAHAJAN, J

MAY 22, 2023

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