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

+ W.P.(C) 1734/2023 & CM APPL. 6618/2023

PARSHANT TIMBER Petitioner

Through: Mr. Rakesh Kumar, Mr.
Subhash Chandra Gupta,
Parveen Kumar Gambhir and
Mr. Shailendra Kr. Verma,
Advs.

versus

COMMISSIONER OF DELHI GOODS AND SERVICES

TAX AND ANOTHER & ANR. Respondents

Through: Mr. Rajeev Aggarwal, Addl.
Standing Counsel with Ms.
Shilpa Singh and Ms.
Divyanshi Bansal, Advs.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

10.03.2023

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1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 27.12.2021, whereby the petitioner's application for cancellation of its GST registration, was rejected. The petitioner also impugns an order dated 24.08.2022, whereby the respondents had *suo moto* cancelled the petitioner's registration with effect from 02.07.2017.

2. The petitioner had made an application in the requisite form (Form GST REG-16) praying that his registration under GSTIN 07AKMPG7225K1ZW) be cancelled with effect from 31.07.2021.

Signature Not Verified

Digitally Signed
By: Dushyant Rawal
Signing Date: 14.03.2023

The reason for seeking cancellation of the registration was disclosed as “Discontinuance of business/Closure of business”. Indisputably, the petitioner has a right to seek cancellation of the registration on the aforesaid ground.

3. In response to the said application, the concerned authority sent a notice dated 23.11.2021, stating that it was not satisfied with the petitioner’s application for the following reasons:

“Basic Details – Others (Please specify) – Please reply ASMT 10 and pay due tax with interest and penalty.”

4. The petitioner did not respond to the said communication dated 23.11.2021. Thereafter, by the impugned order dated 27.12.2021, the petitioner’s application was rejected. The said impugned order is set out below:

“Form GST REG-05

[See Rule9(4)]

Reference Number: ZA071221169192T **Date:** 27/12/2021

To
PRASHANT GARG
1/4738, BALBIRNAGAREXT., STREET NO 06, East Delhi,
Delhi,110032
GSTIN (if available)- 07AKMPG7225K1ZW

Order of Rejection of Application for Registration

This has reference to your reply filed vide ARN AA0708210032381 dated 02/08/2021. The reply has been examined and the same has not been found to be satisfactory for the following reasons:

Therefore, your application is rejected in accordance with the provisions of the Act.

Virender Kumar Indora
Sales Tax Officer Class II / AVATO
Ward 77"

5. It is apparent from the above that the said order has been passed without application of mind and without disclosing any reason. The said order is also, *ex-facie*, erroneous as, admittedly, the petitioner had not filed any reply and therefore there was no question of the concerned officer examining the same.

6. Since the petitioner's business was closed and he had applied for cancellation of his GST registration, he did not file his GST returns for the subsequent period.

7. In view of the above, the respondents issued a show-cause notice dated 18.05.2022, calling upon the petitioner to show cause as to why his registration should not be cancelled. The reason stated for proposing cancellation of the petitioner's registration is that he had not filed returns for the continuous period of six months.

8. Subsequent to the said show cause notice, the respondents passed the impugned order dated 24.08.2022, cancelling the petitioner's registration with effect from 02.07.2017.

9. Notice in the present petition was issued on 10.02.2023. However, the respondents have not filed any response to this petition.

10. Apparently, there is no reason why the petitioner's cancellation was effected with retrospective effect. It is also clear that the order rejecting the petitioner's application for cancellation of registration, is unsustainable as it discloses no reason. The show cause notice issued earlier to the petitioner is also cryptic and does not set out any particulars as to why the petitioner's application for registration was

proposed to be rejected.

11. In view of the above, the present petition is required to be allowed. The respondents are directed to cancel the petitioner's registration with effect from 31.07.2021, as requested by the petitioner.

12. It is clarified that cancellation of the petitioner's GST registration with effect from 31.07.2021 as directed, will not preclude the respondents from taking any measure for recovery of tax, interest or penalty in accordance with law, if it is otherwise found due from the petitioner.

13. The petition is allowed in the aforesaid terms. The pending application stands disposed of.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

MARCH 10, 2023
dr