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By Nidhi, Advocate



Judgment No.: 011
Dt.: 11-11-2023



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Judgment Deals With

Section/Rule	Section 29
Authority	Delhi High Court
Case Name	Vijay Sales Enterprises VS Superintendent Range-25, GST Division
Dated	13 th October, 2023

Brief Facts:

The petitioner had filed an application dated 01.08.2022 praying that the GST registration be cancelled with effect from 31.07.2022 as it had discontinued its business operation. The concerned officer issued a notice dated 03.08.2022 calling upon the petitioner to furnish certain documents, which the petitioner failed to do. On 26.08.2022, an order rejecting the petitioner's application for cancellation of GST registration was passed on the ground that petitioner had not provided the relevant documents. Thereafter, concerned officer issued a SCN dated 30.08.2022 calling upon the petitioner to show cause as to why its registration should not be cancelled as the registration has been obtained by means of fraud, wilful misstatement or suppression of facts. The petitioner responded to the SCN on 07.09.2022 denying the allegation & also requested for postponement of date of hearing in order to enable him to attend the same. Thereafter, concerned officer passed the impugned order cancelling the petitioner's GST registration with retrospective effect from 12.12.2019 (the date on which the registration was granted).

Contention of Petitioner:

The impugned order has been passed in violation of the principles of natural justice. The SCN did not specify the allegations pursuant to which the petitioner's GST registration was proposed to be cancelled. It merely stated that "In case, Registration has been obtained by means of fraud, wilful misstatement and suppression of facts" and did not specify what was the alleged fraud committed by the petitioner; the misstatement allegedly made; or the facts allegedly suppressed. Also, the SCN did not propose that the petitioner's registration would be cancelled from the date it was granted. Thus, the petitioner had no opportunity to object to cancellation of his GST registration with retrospective effect.

Findings & Order:

The SCN was incapable of eliciting any meaningful response & petitioner had denied that he was involved in any fraud or made any misstatement and suppressed any facts. The impugned order is also not informed by reason; it merely states that the reply submitted by the petitioner was unsatisfactory. Neither the SCN nor the impugned order provides any clue as to why the petitioner's GST registration was cancelled. Thus, the SCN and the impugned order were set aside.

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