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By Nidhi, Advocate



Judgment No.: 017
Dt.: 23-11-2023



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Judgment Deals With

Section/Rule	Section 29
Authority	Delhi High Court
Case Name	Shiv Ganga Udyog VS Commissioner Of CGST And Others.
Dated	29 th August, 2023

Brief Facts:

The petitioner's GST registration was cancelled by an order dated 22.07.2022, pursuant to SCN dated 13.06.2022. The only reason provided in the said SCN was: "Discrepancies noticed while conduct of Physical Verification". The Show Cause Notice is cryptic and is incapable to eliciting any meaningful response. Neither the SCN nor the order dated 22.07.2022, cancelling the petitioner's registration with retrospective effect from 02.07.2017, can be sustained. The SCN did not specify any specific reasons for cancelling petitioner's registration. The order dated 22.07.2022 is not informed by reason. The petitioner applied for revocation of cancellation of its GST registration on 21.08.2022. He also, by a subsequent communication dated 19.01.2023, informed the concerned authorities regarding shifting of its principal place of business to another address. Thereafter, a SCN dated 20.03.2023, was issued proposing to reject revocation application as the petitioner was carrying on his activities from another address which was not the place declared in the petitioner's registration. The petitioner responded to the said SCN by a letter dated 23.03.2023 but in vain. The petitioner appealed the said order to the Appellate Authority. The Appellate Authority also rejected the petitioner's application for revocation of cancellation of its GST registration.

Contention of Petitioner:

It is the petitioner's case that he could not file the requisite forms for shifting his address because at the material time, his registration was cancelled and no such application could be filed. The petitioner had shifted to the current place of business after the GST registration was cancelled, therefore, it could not apply for any amendment of GST registration.

Findings & Order:

Since the initial order of cancellation of petitioner's GST registration cannot be maintained, as not informed by reason, the orders dated 28.03.2023 and 06.07.2023 cannot be sustained. The principal ground for not restoring the petitioner's registration is that the petitioner had shifted his premises and had not filed the requisite form. The petitioner had, at the initial stage, stated that he had shifted after his registration was cancelled and therefore, was unable to file the requisite forms. This contention was not addressed. Concededly, if a taxpayer's GST registration is cancelled, he is disabled from filing the necessary forms. If the petitioner is disabled from filing the requisite form to record the change of place of business, the same cannot be considered as a ground for not restoring its GST registration. More particularly, since the same was not the ground on which the petitioner's GST registration was cancelled in the first place. Thus, the impugned orders were set aside & the petitioner's GST registration was directed to be restored.

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