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By Nidhi, Advocate



Judgment No.: 040
Dt.: 02-01-2024



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Judgment Deals With

Section/Rule	Section 29
Authority	Delhi High Court
Case Name	M/s. R. K. Metal Industries VS Commissioner Of GST & Anr.
Dated	12 th December, 2023

Brief Facts:

The petitioner's GST registration was cancelled with retrospective effect from 01.07.2017 vide order dated 28.09.2019. The impugned order does not record any reason for cancelling the petitioner's GST registration but it refers to the Show Cause Notice dated 26.09.2019. The proper officer had issued the SCN proposing to cancel the petitioner's GST registration on the ground that the petitioner had not filed returns for a continuous period of 6 months. The petitioner responded to the SCN stating that the firm was closed in September, 2018 due to a sealing drive conducted by the East Delhi Municipal Corporation. An attempt was made by the petitioner to surrender the GST registration but the system was showing an error message. A copy of the letter which indicates that a request for cancellation of the GST registration was issued by the petitioner was also filed.

Findings & Decision of the Court:

Section 29(2) of the CGST Act, 2017 empowers the proper officer to cancel the registration from any date including with retrospective effect if the authority deems it fit. **However, the discretion to cancel the registration with retrospective effect cannot be exercised arbitrarily.**

In the present case, the only reason for proposing to cancel the petitioner's GST registration was that the petitioner had not filed the returns for a continuous period of 6 months. However, the registration has also been cancelled for a period during which the petitioner had filed the GST returns. The impugned order provides no reason whatsoever for cancelling the petitioner's GST registration much less the reason for doing so with retrospective effect.

Thus, it was directed that the petitioner's GST registration must be cancelled from September, 2018.