



# Lawgics

By Nidhi, Advocate



Judgment No.: 116  
Dt.: 22-04-2024



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## Judgment Deals With

Section/Rule	Section 29
Authority	Delhi High Court
Case Name	Sadhna Kohli VS Sales Tax Officer Class II, Avato Ward 80 & Anr.
Dated	08 <sup>th</sup> April, 2024

### Brief Facts of the Case:

Petitioner was the proprietor of Sai Surgicant & Pharmaceutical. Petitioner was issued Show Cause Notice dated 13.02.2019 on the ground that "firm not found functioning at the time inspection". Pursuant to the said SCN, the GST Registration of the petitioner was cancelled vide order dated 23.02.2019 on the ground "whereas no reply to notice to show cause has been submitted". The GST registration was cancelled w.e.f 01.07.2017. Thereafter, Petitioner filed an application for Revocation of cancellation of GST registration, which was allowed and the GST Registration of the petitioner was restored vide order dated 05.12.2019. A SCN dated 07.01.2020 & thereafter order dated 21.02.2020 were issued to the petitioner whereby GST Registration of petitioner was cancelled retrospectively w.e.f 01.07.2017.

### Contention of the Petitioner:

Though the notice does not specify any cogent reasons, it merely states "Any taxpayer other than composition taxpayer has not filed returns for a period of six months". Further, the said Show Cause Notice also does not put the petitioner to notice that the registration is liable to be cancelled retrospectively. Accordingly, petitioner had no opportunity to even object to the retrospective cancellation of the registration. Thereafter, the impugned order dated 21.02.2020 was issued on SCN dated 07.01.2020. Though it does not give any reasons for cancellation, it, however, states that the registration is liable to be cancelled for the following reasons "Whereas no reply to SCN has been submitted". Further, there are no dues stated to be due against the petitioner and the table shows nil demand.

### Findings & Decision of the Court:

Show Cause Notice and the impugned order are also bereft of any details accordingly the same cannot be sustained and neither the Show Cause Notice, nor the order spell out the reasons for retrospective cancellation. In terms of Section 29(2) of the Act, the proper officer may cancel the GST registration of a person from such date including any retrospective date, as he may deem fit if the circumstances set out in the said sub-section are satisfied. **Registration cannot be cancelled with retrospective effect mechanically.** It can be cancelled only if the proper officer deems it fit to do so. **Such satisfaction cannot be subjective but must be based on some objective criteria.** Merely, because a taxpayer has not filed the returns for some period does not mean that the taxpayer's registration is required to be cancelled with retrospective date also covering the period when the returns were filed, and the taxpayer was compliant. Petitioner does not seek to carry on business or continue the registration, the impugned order dated 21.02.2020 modified to the limited extent that registration shall now be treated as cancelled with effect from 07.01.2020. i.e., the date when Show Cause Notice was issued.