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Judgment No.: 149
Dt.: 24-06-2024



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Judgment Deals With

The GST registration cannot be cancelled with retrospective date merely on account of non-filing of few returns.	
Section/Rule	Section 29
Authority	Delhi High Court
Case Name	Visiontek Engineers VS Commissioner of SGST Delhi
Dated	27 th May, 2024
Citation	W.P.(C) 6729/2024

Brief Facts of the Case:

The Petitioner is engaged in the business of providing service of air condition machines. Show Cause Notice dated 11.10.2021 was issued to the petitioner seeking to cancel its registration. Though the notice does not specify any cogent reason, it merely states "Any Taxpayer other than composition taxpayer has not filed returns for a continuous period of six months". Said Show Cause Notice required the petitioner to appear before the undersigned i.e., authority issuing the notice. However, the said Notice does not bear the date and time whereby the petitioner was required to appear for personal hearing. The said SCN also does not put Petitioner to notice that registration is liable to be cancelled retrospectively.

Contention of the Petitioner:

The order states that effective date of cancellation of registration is 01.07.2017 i.e., a retrospective date. There is no material on record to show as to why the registration is sought to be cancelled retrospectively. The Petitioner had no opportunity to even object to the retrospective cancellation of the registration. The impugned order dated 23.07.2022 passed on the Show Cause Notice does not give any reasons for cancellation.

Findings & Decision of the Court:

The Show Cause Notice and the impugned order are bereft of any details. Neither the Show Cause Notice, nor the order spell out the reasons for retrospective cancellation. In terms of Section 29(2) of the CGST Act, 2017, 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. The 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. Thus, a taxpayer's registration can be cancelled with retrospective effect only where such consequences are intended and are warranted. Therefore, the order dated 23.07.2022 cannot be sustained and was set aside. The GST registration of the petitioner was restored.

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