



Lawgics

By Nidhi, Advocate



Judgment No.: 174
Dt.:18-09-2024



<https://chat.whatsapp.com/Te4VxuhvToe76Us7e5>

**CLICK TO JOIN
WHATSAPP GROUP**

Judgment Deals With

The GST RC cancellation order was set aside as it lacked reasons and violated the principles of natural justice because the SCN did not propose the cancellation of GST registration ab initio i.e. from the date of registration.

CGST Act/DGST Act allows cancellation of registration with retrospective effect, but such action cannot be arbitrary and must be reasoned.

Section/Rule	Section 29
Authority	Delhi High Court
Case Name	M/s. Guruji Enterprises VS Principal Commissioner Delhi GST
Dated	02 nd September, 2024
Citation	W. P. (C) 12122/2024 & CM APPL. 50448/2024

Brief facts of the case:

The petitioner's business suffered on account of the outbreak of COVID-19 and he was constrained to close down its business with effect from 30.11.2020. Thereafter, on 08.02.2021, he filed an application for cancellation of its GST registration with effect from 30.11.2020 on account of the fact that it has closed down its business.

Department issued SCN dated 09.02.2021 seeking additional information/clarification/documents. Amongst other documents, the proper officer sought the copy of balance sheet, profit and loss statement, bank statement, statement of input and sale register, stock register, reconciliation statement of input and output GST.

The petitioner responded to the said notice and furnished certain documents. However, the petitioner's application for cancellation of its GST registration was rejected by an order dated 20.02.2021.

Thereafter, the proper officer issued the impugned SCN and called upon the petitioner to show cause why its registration be not cancelled. The only reason stated in the impugned SCN was that the petitioner had failed to furnish returns for a continuous period of 6 months. Additionally, the petitioner's GST registration was suspended with effect from the date of the impugned SCN i.e. 02.12.2021.

Thereafter, the petitioner's **GST registration was cancelled with retrospective effect from 01.07.2017 by the impugned cancellation order** dated 10.05.2022.

Contention of the Petitioner:

The Cancellation order does not indicate any reason for cancelling the petitioner's GST registration with retrospective effect.

The impugned cancellation order except referring to the impugned SCN, does not mention any reason at all. The impugned **SCN did not propose** any adverse action of cancelling the petitioner's **GST registration ab initio, that is, from the date when it was granted.**

Section 29(2) of the CGST Act/DGST Act, empowers the proper officer to cancel the GST registration with retrospective effect. However, **such an action cannot be arbitrary or whimsical.** It must be informed by reasons. The proper officer must have cogent reason to cancel taxpayer's registration with retrospective effect.

Findings & Decision of the Court:

The impugned cancellation order was passed not only in violation of the principles of natural justice, but is also not informed by reasons. Thus, the impugned cancellation order is liable to be set aside.

The petitioner had also requested cancellation of its GST registration on the ground that it has closed down its business. The said request was not granted on the basis that the proper officer was not satisfied by the information as provided by the petitioner.

Thus, it was directed that the impugned cancellation order will not be operative from 01.07.2017, but with effect from 08.02.2021 being the date on which the petitioner had applied for cancellation of its GST registration.