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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 14596/2023 & CM APPL. 58035/2023

M/S SAMAYSHRISTI ENTERPRISES Petitioner

Through: Mr. Pulkit Verma & Mr.
Peyush Pruthi, Advs.

versus

SUPERINTENDENT, RANGE - 31, GST DIVISION,
NEW DELHI Respondent

Through: Mr. Akshay Amritanshu,
SSC with Mr. Ashutosh
Jain & Ms. Anjali Kumari,
Advs.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

08.11.2023

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1. Issue notice.
2. The learned counsel appearing for the respondent accepts notice.
3. The petitioner has filed the present petition impugning an order dated 26.10.2023 (hereafter '**the impugned order**') passed by the respondent cancelling the petitioner's GST registration with effect from 20.03.2021 (the date of registration).
4. The impugned order was passed pursuant to a Show Cause Notice dated 18.09.2023 (hereafter '**the SCN**'). The respondent had issued the SCN proposing to cancel the petitioner's GST registration for the following reasons: -
 - "1. Section 29(2)(e)-registration obtained by means of fraud, wilful misstatement or suppression of facts"
5. The petitioner was directed to respond to the SCN within a period of seven working days from the said date and to appear before the concerned officer on 25.09.2023. The petitioner's GST registration was also suspended with effect from the date of the



SCN; that is, from 18.09.2023

6. Concededly, the SCN did not specifically stated the reason for proposing to cancel the petitioner's GST registration. Although it was alleged that the GST registration was obtained by means of fraud, wilful misstatement, or suppression of facts, but the SCN did not provide any clue as to the alleged fraud committed by the petitioner or the wilful misstatement made by it. There is no indication as to the facts which are alleged to have been suppressed by the petitioner. It is *trite* law that a show cause notice is to respond to the allegation which form the basis of proposing an adverse action. In the present case, the SCN was incapable of eliciting any meaningful response.

7. The impugned order is also bereft of any reason. It merely states that it is in reference to the SCN. In view of the above, the impugned order is liable to be set aside as it is void and not informed by reason.

8. The learned counsel for the petitioner also points out that the respondent, prior to the SCN, had issued a Show Cause Notice dated 20.09.2021 proposing to cancel the petitioner's GST registration for the same reason – Registration has been obtained by means of fraud, wilful misstatement and suppression of facts.

9. The petitioner's GST registration was, thereafter, cancelled in terms of the order dated 30.09.2021. The petitioner had appealed the order dated 30.09.2021 before the Appellate Authority, however, the said appeal was also rejected on the ground of delay. Thereafter, on 13.05.2023, the petitioner had applied for seeking revocation of cancellation of its GST registration in terms of the circular dated 31.03.2023. The petitioner's application was accepted and the petitioner's GST registration was restored by an order dated 16.09.2023.



10. We also find, *prima facie*, merit in the petitioner's contention that once the petitioner's GST registration was restored – which was cancelled on an allegation that it was obtained by fraud, misstatement or suppression of facts – it is not open for the respondent to again cancel the petitioner's GST registration for the same reason unless it is premised on the ground that had occurred after the petitioner's GST registration has been cancelled on 30.09.2021.

11. In view of the above, the present petition is allowed and the impugned order is set aside and the petitioner's GST registration is directed to be restored forthwith. All pending applications are also disposed of.

12. It is clarified that this would not preclude the respondent from taking steps under the statute in accordance with the law.

13. *Dasti* under the signature of the Court Master.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

NOVEMBER 8, 2023

Ch

