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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ **W.P.(C) 6093/2022**

M/S PARDOSH METALEX THROUGH ITS PROP. INDIRA SHARMA ..... Petitioner

Through: Mr Rajiv Malhotra with Mr ShubhamBhalla, Mr Tarun Sharma and Mr Jasmeet Seerha, Advs.

versus

SALES TAX OFFICER-II DELHI AND ANR ..... Respondents

Through: Mr Aditya Singla, Adv.

CORAM:
HON'BLE MR JUSTICE RAJIV SHAKDHER
HON'BLE MS JUSTICE POONAM A. BAMBA

O R D E R

% **13.04.2022**

[Physical Hearing/Hybrid Hearing (as per request)]

CM No.18316/2022

1. Allowed, subject to just exceptions.

W.P.(C) 6093/2022

2. Mr Rajiv Malhotra, who appears on behalf of the petitioner, says that the order dated 17.09.2021, whereby the petitioner's GST registration has been cancelled, is based on the show cause notice [in short, 'SCN'] dated 15.02.2021, which is, issued by an officer who has no jurisdiction vested in him.

2.1. For this purpose, our attention has been drawn to Section 2(91) of the Central Goods and Services Tax Act, 2017 [in short, 'CGST Act'], and the Central Board of Excise and Customs (CBEC) notification no.2/2017-Central Tax dated 19.06.2017. The said notification was placed before us, in court, by Mr Malhotra.

2.2. According to Mr Malhotra, the SCN, on the basis of which the impugned order cancelling the petitioner's GST registration was passed, could have been issued by either the Commissioner or the Central Tax Officer, who is assigned such functions by the Commissioner in the CBEC.

2.3. In other words, according to Mr Malhotra, in terms of Section 2(91) of the CGST Act, the officer who issued SCN dated 15.02.2021, is not the proper officer.

3. Issue notice to the respondents.

3.1. At this stage, Mr Aditya Singla, learned standing counsel for the revenue, who has joined the proceedings *via* video-conferencing, albeit for another matter, is requested to accept notice on behalf of the respondents.

4. We may note that the order dated 17.09.2021, whereby the petitioner's GST registration has been cancelled, as a matter of fact, gives no reasons.

4.1. All that order dated 17.09.2021 says is that the reply to the SCN dated 15.02.2021 has been received, and the same has not been found satisfactory. It presents an inscrutable face of a sphinx.

5. Given this position, we are inclined to stay the operation of the impugned order dated 17.09.2021, till the next date of hearing.

6. List the matter on 05.09.2022.

7. For the purposes of good order and record, the Registry will scan and upload the notification dated 19.06.2021, so that the same stands embedded in the case file.

RAJIV SHAKDHER, J

POONAM A. BAMBA, J

APRIL 13, 2022/pmc

Click here to check corrigendum, if any