2026:DHC:9592-DB

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

% ***Judgment reserved on: 05.10.2026***

Judgment pronounced on: 30.10.2026

Judgment uploaded on: 30.10.2026

CNR No. DLHC010718112023

\+ W.P.(C) 15619/2023, CM APPL. 62577/2023

OYSTER STEEL AND IRON PRIVATE LIMITED

.....Petitioner

Through: Mr. Abhishek Garg, Mr. Yash Gaiha, Mr. Naman Mehta and Mr. Satyam Singhania, Advs.

versus

ASSISTANT COMMISSIONER CIRCLE VII GROUP 61 CENTRAL GOODS AND SERVICE TAX AUDIT I

.....Respondent

Through: Mr. Aditya Singla, SSC for CBIC with Mr. Akhil Sharma, Ms. Nehaol Sri L.V. and Mr. Dhananjay Gautam, Advs.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE BHARAT PARASHAR

J U D G M E N T

ANIL KSHETARPAL, J.:

1. Through the present Writ Petition, the Petitioner assails notice dated 15.09.2022 (hereinafter, "Impugned Notice") issued under Section 65 of the Central Goods and Services Tax Act, 2017 (hereinafter, "CGST Act"), proposing its audit for a period extending beyond the date from which its GST registration was subsequently cancelled with retrospective effect.





2. The Petitioner was registered under the CGST Act in July 2017. On 11.01.2020, it applied for cancellation of its registration with effect from 31.12.2019 on the ground of discontinuance/closure of business. The application, however, remained pending with the Department.

3. While the application was pending, the Respondent issued the Impugned Notice dated 15.09.2022 under Section 65 of the CGST Act, proposing an audit of the Petitioner's books of account and records for the period from 01.07.2017 to 31.03.2021. The Petitioner was also called upon to furnish the documents and records specified in Annexure-A to the Impugned Notice.

4. In its short counter-affidavit, the Respondent has specifically alleged that the Petitioner failed to disclose the Impugned Notice in its earlier petition, W.P.(C) 5805/2023. Paragraph 5(m) of the short counter-affidavit reads as follows:

> *m. Admittedly, the Petitioner despite being aware of the Notice in FORM GST ADT-01 dated 15.09.2022 failed to disclose the same in its earlier Writ Petition (C) No. 5805/2023 which demonstrates that the Petitioner did not approach this Hon'ble Court with clean hands, and thus it is not entitled to claim any benefit of cancellation of its registration w.e.f. 31.12.2019.*

5. The Petitioner responds to this allegation in paragraph 11(m) of its rejoinder-affidavit as follows:

> *"m. The contents of sub-para (m) of paragraph 5 are vehemently denied. The Respondent is putting baseless allegations against the Petitioner. It is pertinent to mention that if Respondent/GST Department had acted as per sub-rule (3) of Rule22 of the CGST Rules which required them to issue an order within thirty (30) days*
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> *from the date of filing of cancellation application the Petitioner did not even have to file the Writ Petition (C) No. 5805 of 2023 for cancellation of GST registration. It seems the Respondent is trying*

to boast their non-adherence and violation of statutory provisions framed under the CGST Act & CGST Rules".

6. Although the Petitioner generally denies the allegation, it does not specifically state that the Impugned Notice was disclosed in W.P.(C) 5805/2023. Its reliance upon the Department's delay in processing the cancellation application does not answer the allegation of non-disclosure. The Petitioner's awareness of the Notice before disposal of that Petition is also evident from its reply dated 03.05.2023. Accordingly, we find that the Impugned Notice was not disclosed in the earlier proceedings.

7. When the Impugned Notice was issued, the Petitioner's application for cancellation had not been processed, and its registration continued to be reflected as active on the GST portal. The Petitioner acknowledges this position in its rejoinder.

8. Since its application for cancellation was pending for a long time, the Petitioner filed W.P.(C) 5805/2023 seeking, *inter alia*, cancellation of its registration with effect from 31.12.2019, without disclosing the Impugned Notice. By order dated 04.05.2023, this Court recorded the Respondent's submission, made on instructions, that no pending application was visible on the portal, apparently on account of a technical glitch, and that a ticket had been raised to address the issue. The screenshot showing submission of the application was not disputed. This Court accordingly directed the Respondent to process the application within four weeks and further directed that the cancellation would take effect from 31.12.2019. Upon acceptance of the application, returns filed for the period thereafter were to be treated as void and non-est.

9. On 03.05.2023, one day before the aforesaid order was passed, the Petitioner submitted its reply to the Impugned Notice. The order dated 04.05.2023 makes no reference to the Impugned Notice or the proposed audit proceedings.

10. The Petitioner's registration was thereafter cancelled with effect from 31.12.2019. In November 2023, the Petitioner instituted the present Writ Petition seeking quashing of the Impugned Notice and the proceedings arising therefrom. By order dated 05.12.2023, notice was issued in the Petition and operation of the Impugned Notice was stayed.

SUBMISSIONS ON BEHALF OF THE PARTIES

11. Learned counsel for the Petitioner submits that Section 65 of the CGST Act authorises audit only of a "registered person". It is contended that once the Petitioner's registration stood cancelled with effect from 31.12.2019, it could no longer be regarded as a registered person for the purposes of Section 65. On this basis, the Impugned Notice and the proceedings arising therefrom are stated to be without jurisdiction.

12. It is further submitted that, in any event, the Impugned Notice proposes an audit up to 31.03.2021 despite cancellation of the registration with effect from 31.12.2019. Reliance is placed upon the decision of the Madras High Court in ***Tvl. Raja Stores v. Assistant Commissioner (ST)***[1] and paragraph 7.1.2 of the Model All India GST Audit Manual, 2023.

[1] W.P.(MD) No.15291 of 2023, decided on 11.08.2023/ MANU/TN/6752/2023

13. *Per contra*, learned Senior Standing Counsel appearing for the Respondent submits that cancellation of registration does not extinguish liabilities or statutory obligations pertaining to the period during which the registration subsisted. Reliance is placed upon Section 29(3) of the CGST Act and the decisions in ***L.J. Victoria Properties Private Limited v. Union of India***[2] and ***Ashoka Fabricast Private Limited v. Union of India***[3]. It is further emphasised that, when the Impugned Notice was issued, the Petitioner's application for cancellation had not been decided and its registration continued to subsist.

14. In paragraph 5(j) of its counter-affidavit, the Respondent states that it seeks permission to conduct an audit from financial year 2017-18 up to the date of cancellation of the GSTIN, while also referring to the period specified in the Impugned Notice. Its case, however, is that an audit is permissible since the Petitioner was registered during the relevant period.

15. The Respondent further contends that the Petitioner's failure to disclose the Impugned Notice in W.P.(C) 5805/2023 disentitles it to discretionary relief.

ISSUE

16. The question, therefore, is whether the subsequent cancellation of the Petitioner's registration with retrospective effect from 31.12.2019 prevents the Respondent from proceeding with the

[2] 2024:BHC-OS:18689-DB, decided on 19.11.2024
[3] 2024:RJ-JP:20409-DB, decided on 01.05.2024

Impugned Notice dated 15.09.2022 under Section 65 of the CGST Act, either altogether or in respect of the period after 31.12.2019.

ANALYSIS & FINDINGS

17. We begin with the statutory scheme governing audit and cancellation of registration. Section 2(13) of the CGST Act defines an "audit" as examination of records, returns and other documents maintained or furnished by a registered person for verifying, *inter alia*, the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and for assessing compliance with the provisions of the Act and the Rules. A "registered person", in turn, is defined by Section 2(94) as a person registered under Section 25 of the CGST Act.

18. Section 65(1) of the Act empowers the Commissioner or an officer authorised by him to undertake audit of "any registered person" for such period, at such frequency and in such manner as may be prescribed. Rule 101(1) of the Central Goods and Services Tax Rules, 2017 (hereinafter, "CGST Rules") provides that the period of audit may comprise a financial year, part thereof, or multiples thereof. Rule 101(2) further provides that, where it is decided to undertake audit of a registered person, notice in FORM GST ADT-01 shall be issued.

19. An application for cancellation does not bring the registration to an end. Under Rule 21A(1) of the CGST Rules, registration is deemed to be suspended from the date of submission of the application or the date from which cancellation is sought, whichever is later, pending completion of proceedings under Rule 22. Rule 21A(3) continues to

describe the person whose registration is suspended as a "registered person".

20. The Petitioner's registration was deemed to be suspended from 11.01.2020 under Rule 21A(1), that being the later of the date of its application and the date from which cancellation was sought. Its continued description as active on the portal did not displace that statutory consequence. Suspension, however, did not bring the registration to an end. When the Impugned Notice was issued on 15.09.2022, the cancellation application remained undecided. The Notice proposed audit for the period from 01.07.2017 to 31.03.2021.

21. What, then, does the expression "registered person" mean in Section 65? Because the definitions in Section 2 apply "unless the context otherwise requires", that phrase must be read in light of the function an audit performs under the Act. As Section 2(13) makes clear, the subject of an audit is not the taxpayer's present status on the common portal, but the records, returns and documents maintained or furnished under the GST regime to verify past compliance.

22. An audit under the Act looks backwards. It examines records already maintained, returns already furnished, credits already availed and refunds already claimed. The provision thus directs attention to conduct under a registration and the records relating to it. The expression "registered person" cannot, in this context, be confined to a person whose registration continues to be effective when that examination takes place.

23. The expression "for such period" has no connection between the period during which the assessee was registered and the subject of

audit. The question here concerns a period covered by a registration which had been granted and had not then been cancelled, but which was subsequently cancelled with retrospective effect. The continued legal effectiveness of that registration and the power to examine what occurred under it are related, but they are not the same question.

24. For the purposes of Section 65, we distinguish between a period during which no registration existed from one covered by a registration which was subsequently cancelled retrospectively. In the latter case, cancellation determines the legal effectiveness of the registration from the specified date. It does not, however, erase the historical fact that registration had been granted or that acts may have been undertaken under it. Read in the context supplied by Section 2(13), the expression "registered person for such period" permits scrutiny of those acts and the records relating to them, notwithstanding the subsequent alteration of their legal consequences.

25. This construction gives effect to both cancellation and audit. Cancellation may affect the legal treatment of a transaction, return or claim, whereas audit examines the facts necessary to determine the consequences prescribed by law.

26. Section 29(3) preserves liabilities and statutory obligations for periods prior to the date of cancellation. However, Section 29(3) does not answer whether an audit may extend to a period after the effective date of retrospective cancellation. The authority for that examination must come from Sections 2(13) and 65 read with Rule 101.

27. This understanding draws support from the contextual approach adopted in ***L.J. Victoria Properties*** *(supra)*. The Bombay High Court

explained that "registered person" must be understood in the setting of an audit, which examines records maintained, declarations made and benefits claimed in the past. Subsequent cancellation does not, for that reason alone, exclude a person from Section 65.

28. The Court also held that registration must be considered in relation to the financial year or period audited. There, the taxpayer had admittedly remained registered during that period, and cancellation preceded the audit notice. The decision did not concern cancellation subsequently given retrospective effect from a date falling within the audited period. It therefore does not directly determine the present question.

29. We adopt the contextual approach of ***L.J. Victoria Properties*** *(supra)* while deciding that further question independently. Where a registration had been granted and had not yet been cancelled during the period proposed for audit, that factual nexus satisfies Section 65 even if the registration is subsequently cancelled retrospectively.

30. In the present case, the Petitioner was granted registration in 2017. Its cancellation application, remained pending even after the period covered by the Impugned Notice had ended. During the pendency of that application, its status was governed by Rule 21A. The fact that cancellation was later given retrospective effect from 31.12.2019 does not place the records and statutory conduct referable to that registration for the period specified in the notice beyond the reach of an audit under Sections 2(13) and 65.

31. The conclusion does not depend upon treating issuance of ADT-01 as fixing jurisdiction irrespective of subsequent events. It

follows from the scheme of Sections 2(13) and 65 read with Rule 101 and the nature of the audit thereby authorised. Nor do we suggest that the Petitioner in fact carried on business, made taxable supplies or incurred tax liability after 31.12.2019. None of those matters can be assumed merely from the issuance of the audit notice. If they arise for consideration, they must be examined in accordance with the cancellation order and the governing provisions of the Act.

32. The direction concerning the returns also does not place the underlying records beyond examination. A return is one mode through which statutory information is furnished. An audit under Section 65 has a wider field of examination and extends to books of account, records and documents relevant to turnover, tax paid, input tax credit, refunds and compliance with the Act and the Rules. Treating a return as void and non-est therefore does not, without more, erase the transactions or records underlying it.

33. Audit does not itself determine tax liability. If matters contemplated by Section 65(7) are detected, consequential action must satisfy the requirements of the applicable statutory provision.

34. The decision of the learned Single Judge of the Madras High Court in ***Tvl. Raja Stores v. Assistant Commissioner (ST)*** *(supra)*, relied upon by the Petitioner, proceeds on a different construction. Reading the words "any registered person" as confined to an existing concern, the Court held that Section 65 could not be invoked after cancellation of registration, though it granted liberty to the authorities to initiate proceedings under Sections 73 and 74 of the Act. In ***L.J. Victoria Properties*** *(supra)* the Division Bench of the Bombay High

Court disagreed with that view, noting both that ***Tvl. Raja Stores*** had not considered Section 29(3) and Rule 101, and that an audit under Section 65 operates in aid of proceedings under Sections 73 and 74. We respectfully agree that ***Tvl. Raja Stores*** *(supra)* overlooks the scheme of Sections 2(13) and 65 read with Rule 101, and we are therefore unable to adopt its construction.

35. In ***Ashoka Fabricast*** *(supra)*, the Jaipur Bench of the Rajasthan High Court upheld recourse to Section 65 after cancellation, holding that the expression "registered person" included persons registered during the period audited. The judgment refers to financial year 2019-20 and cancellation on 16.01.2020, but the Court did not separately determine the permissibility of auditing the portion of a financial year falling after the effective cancellation date. We therefore rely upon it only for its rejection of an absolute bar to audit after cancellation.

36. Paragraph 7.1.2 of the Model All India GST Audit Manual, 2023 contemplates cancellation from an anterior date preceding initiation of audit and advises that, if deemed fit, audit need not be carried out, with the taxpayer's details being shared with the jurisdictional officer and enforcement wing. The discussion is not confined to cancellation orders made before issuance of ADT-01. Nevertheless, the Manual is only for departmental guidance and cannot determine the scope of the statutory power. To the extent the paragraph suggests that retrospective cancellation necessarily excludes examination under Section 65 of records and conduct referable to the registration, we are unable to adopt that interpretation for the reasons recorded above.

37. We have also considered the statement in paragraph 5(j) of the counter-affidavit that permission for audit may be granted from financial year 2017-18 "till date of cancellation of the GSTIN". The same paragraph refers to the audit period specified in the Impugned Notice, and the Respondent thereafter specifically maintains the validity of the notice for the period 01.07.2017 to 31.03.2021 and seeks dismissal of this Petition. Read in the context of the counter-affidavit as a whole, we do not regard the expression as an unequivocal concession that the audit must terminate on 31.12.2019.

38. We accordingly reject the contention that retrospective cancellation with effect from 31.12.2019 renders the Impugned Notice without jurisdiction, either wholly or for the subsequent portion of its stated period. The period specified in the Impugned Notice is therefore not liable to be curtailed on that ground. Nothing in this judgment permits the Respondent to treat the post-31.12.2019 returns as legally valid, to disregard the retrospective cancellation, or to assume that taxable supplies were made, tax liability arose, or any other statutory consequence followed during that period. Our decision is confined to the effect of retrospective cancellation and does not determine any other statutory requirement governing the conduct or completion of the audit.

39. Apart from the reasons recorded above, the Petitioner's conduct also disentitles it to discretionary relief. The pending audit was material to the relief sought in the earlier Writ Petition. The Department's delay in processing the cancellation application did not absolve the Petitioner of its obligation to disclose the Audit Notice. Having failed to do so, the Petitioner now relies upon the directions

obtained in those proceedings to seek quashing of that very Notice. In these circumstances, this Court declines relief on this additional ground as well.

40. It is open to the Respondent, if so advised, to seek modification of the order dated 04.05.2023 in W.P.(C) 5805/2023 in accordance with law.

CONCLUSION

41. For the foregoing reasons, we find no ground to interfere with the Impugned Notice dated 15.09.2022. The Writ Petition is accordingly dismissed. The interim order dated 05.12.2023 stands vacated.

ANIL KSHETARPAL, J.

BHARAT PARASHAR, J.

OCTOBER 30, 2026
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