
[2023] 153 taxmann.com 432 (Andhra Pradesh)[12-07-2023]

GST : Where show-cause notice for cancellation of registration of petitioner was issued on vague, obscure and undecipherable ground, depriving petitioner of opportunity to submit his objection/explanation and particulars of issuing authority were also not mentioned in notice, impugned notice was to be set aside

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[2023] 153 taxmann.com 432 (Andhra Pradesh)

HIGH COURT OF ANDHRA PRADESH

Arhaan Ferrous and Non - Ferrous Solutions (P.) Ltd

v.

Superintendent*

U.DURGA PRASAD RAO AND SMT. VENKATA JYOTHIRMAI PRATAPA, JJ.

WRIT PETITION NO. 16097 OF 2023

JULY 12, 2023

Registration to be cancelled in certain cases - Ground in notice - Vague, obscure and undecipherable ground - Petitioner challenged proceedings issued, under rules 21 and 22(1) of GST Rules, seeking show-cause for cancellation of petitioner's registration - Petitioner's grievance was that show-cause notice was issued on vague, obscure and undecipherable ground, depriving petitioner of opportunity to submit his objection/explanation - Further, particulars of issuing authority were also not mentioned and so petitioner was unable to know as to whether it was issued under CGST Act or under APGST Act - HELD : Reason for issuing show-cause notice being cryptic and undiscernible with regard to default if any committed by petitioner, left no scope for petitioner to give an affective reply - Still, petitioner had submitted his explanation/objections giving details therein, which were not to be discussed at length as show-cause notice itself suffered vice of obscurity - That apart, particulars such as designation and office of issuing authority were also not mentioned in show-cause notice - Accordingly impugned notice was to be set aside [Section 29 of Central Goods and Services Tax Act, 2017/Andhra Pradesh Goods and Services Tax Act, 2017 - Rule 21, read with Rule 22(1) of Central Goods and Services Tax Rules, 2017/Andhra Pradesh Goods and Services Tax Rules, 2017] [Paras 5 and 6] [In favour of assessee]

V. Siddharth Reddy, *Ld. Counsel for the Petitioner*. Suresh Kumar Routhu, *Ld. Sr. Standing Counsel for CBIC for the Respondent*

ORDER

U. Durga Prasad Rao, J. - Heard Sri V.Siddharth Reddy, learned counsel for petitioner, learned Government Pleader for Commercial Taxes and Sri Suresh Kumar Routhu, learned Senior Standing Counsel for CBIC, representing on behalf of the respondents.

2. The challenge in this writ petition is to the impugned proceedings issued under Rules 22(1) and Sub-Rule (2A) of 21 of GST Act, *vide* reference Number:ZA370623035317K, dated 20.06.2023 in Form GST issued by an undisclosed authority seeking show-cause for cancellation of registration of the petitioner's GSTIN No.37AATCA9148B1ZD w.e.f.20.06.2023. Apart from the merits of the contents of the notice, the prime grievance of the petitioner, as ventilated by his learned counsel is that the show-cause notice was issued on vague, obscure and undecipherable ground and thereby, the petitioner is deprived of the opportunity to submit his objection/explanation. Learned counsel further submitted that the particulars of the issuing authority are

also not mentioned, so he is unable to know as to whether it was issued by the Central Authority under CGST Act or the State Authority under AP GST Act, 2017. In these circumstances, learned counsel would submit, though the petitioner was not able to fully understand the purport of the show-cause notice, however, he submitted his explanation on 20.06.2023 i.e., on the same date of receiving the show-cause notice giving all the plausible explanations which are at his disposal. Learned counsel would thus submit that since the suspension of the registration causes any amount of hardship, the impugned show-cause notice may be set aside. Learned counsel would submit that on verification he came to know that the impugned show-cause notice was issued by the Assistant Commissioner (Central Taxes), Chittoor-1 Range, Tirupati Division and therefore, he addressed his explanation to the said authority and impleaded the Superintendent, Central Tax, Chittoor Range, Tirupati Division, as the 1st respondent, for convenience sake.

3. Sri Suresh Kumar Routhu, learned Senior Standing Counsel for CBIC for the respondents, on oral instructions, would submit that the impugned show-cause notice has not been emanated from the office of either the Assistant Deputy Commissioner (Central Taxes), Tirupati Division, or any other Central Authority and requested the Court to pass appropriate orders accordingly. Learned Government Pleader for Commercial Taxes represented the matter thereafter and that is how, the matter is heard.

4. As rightly submitted by the learned counsel for petitioner, the reason for issuing show-cause notice is very cryptic and undiscernible with regard to the default if any committed by the petitioner as the reason shown is as follows:

"Non compliance of any specified provisions in the GST Act or the Rules made thereunder as may be prescribed."

5. The reason shown above requires no further emphasis as it is vague and delphic and therefore, show-cause notice gives no scope for the petitioner to give an affective reply. Still, the petitioner submitted his explanation/objections on 20.06.2023 giving certain details therein, which in our view need not be discussed at length as the show-cause notice itself suffers the vice of obscurity. That apart, the particulars such as designation and office of the issuing authority are also not mentioned in the show-cause notice. In our considered view, these defects themselves are sufficient to strike down the notice at the threshold. We are constrained to hold that this is not the first occasion where these type of show-cause notices are being issued by the concerned authorities without clearly mentioning the reason for issuing such notice and without mentioning the particulars of issuing authority. We hope and trust that the concerned authorities will be diligent here after in issuing show-cause notices, as such notices contain drastic orders of suspension of the registration of the concerned assessee causing much hardship to them.

6. Accordingly, this writ petition is allowed and the impugned show-cause notice under Rules 22(1) and Sub-Rule (2A) of 21 *vide* reference Number:ZA370623035317K, dated 20.06.2023, is set aside and consequently, the registration of the petitioner is restored with immediate effect. However, this order will not preclude the concerned authority to issue a fresh show-cause notice embedding all necessary and relevant particulars therein so as to enable the petitioner to submit his explanation. No costs.

As a sequel, interlocutory applications pending, if any, in this case shall stand closed.

AJAY

*In favour of assessee.