

Cancellation of GST Registration without specifying reasons is against principles of natural justice

The Hon'ble Gujarat High Court in *Dee Cubes Diamonds Pvt. Ltd. v. State of Gujarat [R/Special Civil Application No. 22875 of 2022 dated December 16, 2022]* has held that the Show Cause Notice (“SCN”) that does not contain reason to justify the cancellation of registration therefore, is violative of principles of natural justice and needs to be quashed.

Facts:

Dee Cubes Diamonds Pvt. Ltd. (“**the Petitioner**”) is engaged in the business of trading in bullion and the sale and purchase of goods is their usual course of business and all their transactions were duly reflected in the returns filed.

A search proceeding was carried out by the Revenue Department (“**the Respondent**”) at the premises of the Petitioner on December 8, 2021. On the allegation of wrongful availment of Input Tax Credit (“**ITC**”) under the Central Goods and Services Tax Act, 2017 (“**the CGST Act**”), the Petitioner reversed the ITC of INR 90,00,000/- and further made payment of INR 2,00,00,000/- through electronic cash ledger under protest to show their bonafides and also to avoid coercive actions.

The Respondent thereafter, issued an SCN dated May 26, 2022 proposing to cancel the registration of the Petitioner by alleging that the Petitioner was engaged in issuing invoices. The Petitioner gave a reply to the SCN on July 2, 2022 stating that the SCN was completely vague and bereft of any reasons and without any supporting materials. Further, the Petitioner requested to restore the GST Registration and for personal hearing, however, no such request was acceded. Consequently, the Respondent passed an order (“**the Impugned Order**”) cancelling the GST Registration of the Petitioner on the ground which was never form part of the SCN.

Being aggrieved, this petition has been filed.

Issue:

Whether the SCN issued to the Petitioner for cancellation of registration is violative of principles of natural justice?

Held:

The Hon'ble Gujarat High Court in ***R/Special Civil Application No. 22875 of 2022*** held as under:

- Opined that, the SCN issued to the Petitioner and Impugned Order does not specify the reason for which the allegation of wrongful availment or utilization of ITC or refund of tax is made.
- Stated that, as the SCN does not contain reason to justify the action of the Respondent, it is violative of principles of natural justice.
- Relied on the judgment of Hon'ble Gujarat High Court in ***Aggarwal Dyeing and Printing Works v. State of Gujarat & Ors. [SCA No.18860 of 2021]*** wherein it was stated that reasons are heart and soul of the order and non-communication of the same itself amounts to denial of reasonable opportunity of hearing resulting into miscarriage of justice.
- Quashed and set aside the SCN and the Impugned Order.
- Directed the Respondents to restore the GST Registration of the Petitioner after providing the reasonable opportunity of hearing and to pass appropriate speaking order on merits.

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