

### **Cancellation of registration without providing opportunity of hearing is cryptic in nature**

The Hon'ble Gujarat High Court in ***Mahendra Junabhai Zala v. Office of Deputy Commissioner, State Tax [R/Special Civil Application No. 13597 of 2022, dated November 25, 2022]*** has held that Show Cause Notice (“SCN”) and order for cancellation of Goods and Service Tax (“GST”) Registration is not sustainable on the grounds that the order was passed without any personal hearing and thus, cryptic in nature. Further directed the Revenue Department to restore the GST registration of the assessee.

#### **Facts:**

Mahendra Junabhai Zala (“**the Petitioner**”) is a sole proprietor and a small-scale contractor in construction business. The Petitioner has challenged the action of the Office of the Deputy Commissioner, State Tax (“**the Respondent**”) essentially on the ground of the violation of principle of natural justice. The Respondent issued an SCN on May 15, 2018 following the order cancelling the GST Registration of the Petitioner on August 13, 2018 (“**the Impugned Order**”). The request of the Petitioner for restoration of cancellation of the registration was rejected on November 26, 2021 on the ground that there was a huge delay of four years in challenging the SCN and the Impugned Order and the time period of appeal was also over.

The Petitioner contended that, being from a rural background is unfamiliar with technology, the Petitioner had hired a local accountant who failed to file the GST returns. Moreover, it is only after the passing away of the accountant on May 06, 2021, the Petitioner realised that the GST returns were not filed. The Petitioner was unaware of the SCN updated on a GST portal.

#### **Issue:**

Whether there was a violation of the principle of natural justice while issuing the SCN and the Impugned Order to the Petitioner?

#### **Held:**

The Hon'ble Gujarat High Court in ***R/Special Civil Application No. 13597 of 2022*** held as under:

- Stated that, the SCN and the Impugned Order were very cryptic and is in a violation of the principle of natural justice as the concerned person will have no opportunity to deal with the matter as otherwise required. The very purpose of issuance of SCN is to avail an opportunity to the parties and if the matter can be addressed at that stage, the very purpose of the notice gets frustrated once there is such cryptic notice.
- Relied on the of the Hon'ble High Court of Gujarat in ***Aggarwal Dyeing and Printing Works vs. State of Gujarat and others*** **[[2022] 92 GST 82 (Gujarat)]** and opined that it is important for the proper officer empowered to adhere to the principles of natural justice.
- Opined that, it is settled legal position of law that reasons are heart and soul of the order and non-communication of same itself amounts to denial of reasonable opportunity of hearing, resulting in miscarriage of justice.
- Held that, the SCN and the Impugned Order shall be interfered with on the very basis of hollow foundation and being cryptic in nature and on the ground of violation of principles of natural justice.
- Quashed the Impugned Order and the SCN.
- Directed the Respondent to restore the GST registration of the Petitioner and imposed a cost of INR 25,000/- on the Respondent.
- Permitted the Respondent to issue a fresh SCN with reasons for such SCN mentioned. Further directed the Respondent to provide reasonable opportunity of hearing to the Petitioner.

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