An inquiry conducted by the GST Officer is not a trial

The Hon'ble Kerala High Court in ***M/s. Steel India vs the State Tax Officer, Nattika, Thrissur and Ors. [W.P.(C) WPC No.29033 of 2023 dated October 5, 2023]*** held that the investigation carried out by the qualified officer should not be considered a trial.

Facts:

The current Writ Petition has been initiated by M/s. Steel India, ("**the Petitioner**") with the aim of annulling the orders that resulted in the cancellation of their GST registration. This cancellation was carried out under the authority granted by Section 29(2)(e) of the Central Goods and Services Tax ("**the CGST Act**")/ State Goods and Services Tax Act ("**the SGST Act**") in conjunction with Rule 21(a) of the Central Goods and Services Rules, 2017 (**"the CGST Rules"**) /State Goods and Services Tax Rules, 2017 (**"the SGST Rules"**), along with associated rules, effective from July 1, 2017. The Petitioner, a partnership firm primarily involved in the trade of iron and steel products, was registered under the Kerala Value Added Tax Act, 2003 (**"the KVAT Act"**) until June 30, 2017, and subsequently, under the CGST Act/ the SGST Act. They had to temporarily suspend their business operations starting from October 01, 2022, due to unforeseen circumstances, while still complying with GST return filings.

The counsel for the Petitioner asserted that (**"Impugned orders"**) issued by the first respondent were illegal, arbitrary, and unwarranted. They contended that these orders should be invalidated. Furthermore, he highlighted the absence of any mention in the show cause notice ("**SCN**") regarding a statement from the building owner where the petitioner's office was located, pertaining to the business activities, being conducted at that address.

Conversely, the Government Pleader opposed the Writ Petition, ("**the Respondents**") contending that the provisions outlined in Section 29(2)(e) of the CGST Act and Rule 21(a) of the CGST Rules do not require the possibility of cross-examining the individual, whose statement was considered concerning the business activities of a dealer at the registered

premises. It was argued that the burden of proof rested with the Petitioner to demonstrate that their business operations were indeed conducted from the specified location.

Issue:

Whether the cancellation of GST registration is justified when the Petitioner contends that the cancellation orders are illegal and unjustified, particularly due to the absence of an opportunity for cross-examination regarding the business activities conducted at the registered premises?

Held:

The Hon'ble Kerala High Court in **W.P.(C) WPC No.29033 of 2023 dated October 5, 2023,** held that:

- Upheld the State Tax Officer's decision to cancel the Petitioner's registration due to the absence of business activity at the declared location.
- Emphasized that the officer's inquiry was not a trial but a swift process to determine if the registered dealer operated from the declared business address, and the Petitioner failed to provide supporting evidence for his claim or documents to change the business location.
- Consequently, the writ petition was dismissed, affirming the authority's right to cancel registration after offering the dealer an opportunity to be heard.

Author can be reached at info@a2ztaxcorp.com)

unless authorized in writing and we reserve a legal right for any infringement on usage of our article or newsletter without prior permission.