

Assessee must respond to SCN for the case to be adjudicated on merits

The Hon'ble Allahabad High Court in the case of *Mgs Palace v. State of Uttar Pradesh [Writ Tax No. 1390 of 2023 dated January 03, 2024]*, held that the satisfaction required to be recorded in terms of Section 61(3) of the Central Goods and Services Tax Act, 2017 (**"the CGST Act"**)/ the Uttar Pradesh Goods and Services Tax Act, 2017 (**"the UPGST Act"**) is primarily subjective. Unless an inherent lack of jurisdiction or complete absence of relevant material is alleged and established, no interference may be warranted in the exercise of extraordinary jurisdiction of the Court under Article 226 of the Constitution of India. Thus, the Petitioner is open to responding to the Show Cause Notice for the case to be adjudicated on merits.

Facts:

Mgs Palace (**"the Petitioner"**) was issued a Show Cause Notice dated May 19, 2023 (**"the Impugned SCN"**) under Section 74 of the UPGST Act. Further, the Petitioner was issued another Show Cause Notice dated May 19, 2023, under Section 61 (1) of the UPGST Act. The Petitioner replied through offline mode. The Petitioner had already disclosed the transaction value of INR 5,91,000/- against the transaction value of INR 11,50,000/- referred to in the notice dated May 19, 2023. Further, the disclosure of INR 5,00,000/- was made upon receipt of the Impugned SCN. However, the Revenue Department did not consider the reply furnished by the Petitioner on September 02, 2023.

Hence, aggrieved by the Impugned SCN, the Petitioner filed the present writ petition.

Issue:

Whether Assessee must respond to SCN or approach the Court when the adjudicating authority fails to hear the case?

Held:

The Hon'ble Allahabad High Court in *Writ Tax No. 1390 of 2023*, held as under:

- Opined that, the satisfaction required to be recorded in terms of Section 61(3) of the UPGST/CGST Act is primarily subjective. Unless an inherent lack of jurisdiction or complete absence of relevant material is alleged and established, no interference may be warranted in the exercise of extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.
- Held that, there is no jurisdictional or fundamental error in the proceedings to compel the court to intervene at a premature stage. Hence, the writ petition was dismissed.

Our Comments:

Section 61 of the CGST Act talks about “Scrutiny of returns”. According to Section 61(3) of the CGST Act, in case no satisfactory explanation is furnished within a period of thirty days of being informed by the proper officer or such further period as may be permitted by him or where the registered person, after accepting the discrepancies, fails to take the corrective measure in his return for the month in which the discrepancy is accepted, the proper officer may initiate appropriate action including those under Section 65 to 67 or proceed to determine the tax and other dues under Section 73 or Section 74 of the CGST Act.

Author can be reached at info@a2ztaxcorp.com)

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