

Electronic filing of the reply of SCN is not mandatory in Form GST-DRC-06

The Hon'ble Madras High Court in *Asia (Chennai) Engineering v. Assistant Commissioner (ST) (FAC) [W.P. (MD).Nos.13851 and 13870 of 2022 dated August 22, 2022]* held that the filing of a reply to the show-cause notice in form GST-DRC-06 is not mandatory under Section 73(9), 74(9) and 76(3) of Central Goods and Services Act, 2017 (**"the CGST Act"**) and the reply so filed through post shall also be treated as valid. Also, while disposing of the petition, the Court directed the assessing authority to fix the personal hearing date for the assessee, give him an opportunity, and receive any documents produced by the assessee.

Facts:

Asia (Chennai) Engineering (**"the Petitioner"**) is a private limited company. A show cause notice dated November 30, 2021 (**"SCN"**) was issued to the Petitioner for revoking the erroneous refund claim. To this SCN, the Petitioner sent a reply dated January 07, 2022. Further, the petitioner had received the adjudication order dated March 31, 2022 (**"the Impugned order"**) passed by the Assistant Commissioner (ST) (FAC) (**"the Respondent"**) no one appeared from the Petitioner's side though the chance of hearing provided two times dated February 17, 2022, and again on March 16, 2022.

Being aggrieved by this Impugned order, the Petitioner contended that the reply to SCN was sent to the Respondent in hard copy and not through the online portal, and this hard copy reply was not considered by the Respondent.

Thereafter, the Respondent contended that after the online filing of the returns, all the communication by the Petitioner with the Respondent as well as the Respondent with the assessee or only through the portal. The show cause notice was issued through the portal. Thereafter, it is for the assessee to reply within a period of 30 days through the portal.

Therefore, being aggrieved by the Impugned order, the Petitioner filed two writ petitions for the tax period July 2017 to March 2018 and the tax period April 2018 to May 2018 as according to the Petitioner the impugned proceedings were in violation of the principles of natural justice and further prayed to direct the Respondent to re-do the assessment after granting of personal hearing in accordance with the law.

The stay order dated July 01, 2022, was passed by the Court, and the present case is in continuation of this stay order.

Issue:

Whether electronic-filing of reply to the SCN in form GST-DRC-06, mandatory for the Petitioner or not?

Held:

The Hon'ble Madras High Court in ***W.P. (MD).Nos.13851 and 13870 of 2022 dated August 22, 2022***, held as under:

- The Petitioner had sent a detailed reply to the SCN through hard copy which was received by the Respondents and is not disputed. In such cases of erroneous refund, the Petitioner deserves a personal hearing so that his objections can be heard. It would be appropriate that a personal hearing is given and the documents submitted by the Petitioner are considered.
- Disposed of the petition directing the Respondent to fix the personal hearing date for the Petitioner, give him an opportunity, receive any documents if produced, and thereafter proceed with the issued SCN.

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