

**Penalty cannot be imposed if terms of the Show Cause Notice have been complied with**

The Hon'ble Allahabad High Court in the case of *M/s. Rathore Building Material v. Commissioner of State tax [Writ Tax No 136 of 2023 dated December 1, 2023]* held that Petitioner had complied with terms of Show Cause Notice by furnishing returns within 15 days and containing recital that if returns were tendered in time, proceedings shall be withdrawn. However, the penalty was imposed on the Petition without lawful justification. Hence, Impugned orders were contrary to law and passed on non-application of mind and the same were liable to be set aside.

**Facts:**

M/s. Rathore Building Material ("**the Petitioner**") was served the Show Cause Notice ("**the SCN**") under Section 46 of the Central Goods and Service Tax Act, 2017 ("**the CGST Act**") by the Commissioner of State Tax ("**the Respondent**") where they were asked to furnish returns within 15 days in order to withdraw the proceedings.

Subsequently, the Petitioner furnished the returns within the time prescribed in the SCN. However, the Respondent passed the Order ("**the Impugned Order**") imposing penalty under Section 125 of the CGST Act, recorded the date of reply submitted by the Petitioner, and returned the findings stating that no reply was furnished by the Petitioner.

Hence, the Petitioner filed the writ petition before the Hon'ble Allahabad High Court.

**Issue:**

Whether the penalty be imposed when the Petition complied with the terms of the SCN?

**Held:**

The Hon'ble Allahabad High Court in the case of *Writ Tax No. 136 of 2023* held as under:

- Observed that, the Respondent issued the Impugned Order by imposing the Penalty by returning the findings that no reply to the SCN was tendered by the Petitioner. The finding is vitiated on account of non-application of mind to the facts in the record.
- Noted that, the petitioner had complied with the terms of the SCN by furnishing the returns within 15 days, there was no lawful justification to impose the penalty.
- Held that, the Impugned Order is contrary to law and passed on non-application of mind. Hence, the Impugned Order is liable to be set aside.

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