

Relief to Petitioner in case where Show Cause Notice does not clearly indicate reasons for which registration is cancelled

The Hon'ble Delhi High Court in the case of *M/s. Rahul Kumar Jain and Co. v. Union Of India & Anr. [W.P. No. 11963 of 2023 dated September 12, 2023]* observed that the Revenue Department cannot cancel the GST Registration of an assessee where specific reasons are not provided. The Court held that show cause notices and orders lacking reasons cannot be upheld.

Facts:

M/s. Rahul Kumar Jain ("**the Petitioner**") is a Proprietorship Concern engaged in the business of wholesale supply of scrap and discarded material.

The Petitioner received a Show Cause Notice dated May 16, 2023 ("**the Impugned SCN**") proposing to cancel the GST Registration and *interalia* alleged that the Petitioner had obtained registration by means of fraud, wilful misstatement or suppression of facts and the learned superintendent proposed the cancellation of GST registration under Section 29(2)(e) of the Central Goods and Services Tax Act, 2017 ("**the CGST Act**") and suspended the GST Registration with effect from the date of issue of Impugned SCN, i.e., May 16, 2023.

The Petitioner in compliance with the Impugned SCN, furnished the reply stating that there has been no fraud, wilful misstatement, or suppression of facts on the part of the Petitioner during the process of obtaining GST registration.

The Petitioner further asked about the allegations to understand why and on what ground, the department had alleged that the Petitioner had taken registration by means of fraud, wilful misstatements or suppression of facts so that the Petitioner can submit the defense and a detailed reply to the same.

The Revenue Department (“**the Respondent**”) without considering the reply of the SCN and/ or providing any opportunity of being heard and/ or stating any reasons for fraud, wilful misstatements or suppression of facts as alleged in the Impugned SCN, issued an order for cancellation of registration on May 29, 2023 (“**the Impugned Order**”).

Adv. Bimal Jain (**Advocate of the Petitioner**) argued before the Hon’ble Delhi Court stating that the Impugned SCN and Impugned Order cannot be sustained as it does not sufficiently set out the reasons why the Petitioner’s GST Registration was cancelled and is violative of the principle of natural justice.

Issues:

- Whether GST Registration can be cancelled without considering the reply of the Petitioner, particularly when GST registration is cancelled on the ground of fraud, wilful misstatements or suppression of facts?
- Whether the substantial right of the Petitioner of opportunity of being heard to be heard can be denied on account of baseless allegations?

Held:

The Hon’ble Delhi High Court in ***W.P. No. 11963 of 2023*** held as under:

- Observed that, the Petitioner was not provided with specific reasons for the cancellation of its GST registration, despite requesting such information. The impugned order did not explain the cancellation and merely referred to the Impugned SCN without stating any grounds.
- Noted that, in several previous decisions, it had held that show cause notices and orders lacking reasons cannot be upheld. The court expressed concern that taxpayers continue to face such notices and orders that provide no explanation whatsoever for the actions taken by the tax authorities.

- Allowed the Petitioner's petition, and imposed a cost of INR 5,000 on the Respondent.

Our Comments:

The judgement passed by the Hon'ble Delhi High Court is an applaudable one for its emphasis on transparency and accountability in tax proceedings. The High Court observed that where assessee was not provided with specific reasons for the cancellation of its GST registration, even after requesting such information, highlights a fundamental issue in tax administration.

The Court's decision to set aside the order due to its lack of explanation and grounds serves as a significant step towards ensuring fairness and due process in tax matters.

Further, by imposing a cost on the Revenue Department, the Court sends a strong message that show cause notices and orders must provide clear and detailed reasons for their actions, allowing taxpayers to respond with precision.

This judgment sets a precedent for more transparent and accountable tax proceedings, which is commendable for the sake of both taxpayers and the integrity of the tax system.

To know more watch our video on **“What to do if GST Registration is cancelled by Department - Options available”** II Adv Bimal Jain at: <https://youtu.be/Xt2-D8rzjAQ>

Relevant Provision:

Section 29 of the CGST Act:

“Cancellation or suspension of registration

29. (2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,—

.....

(e) registration has been obtained by means of fraud, wilful misstatement or suppression of facts:

.....”

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