

SCN/Order issued without giving any specific details or reasons for taking any action are not sustainable

The Hon'ble Delhi High Court in ***Marg Erp Ltd v. Commissioner of Delhi Goods and Service Tax & Anr. [W.P.(C) 872/2023 dated February 3, 2023]*** has set aside the demand order passed by the Revenue Department on the ground that such order was unsigned. Held that, an unsigned notice/order cannot be considered as an order and hence cannot be sustained. Further, directed the assessee to submit the reply within 2 weeks and directed the Revenue Department to pass the fresh orders after the assessee has been heard.

Facts:

A SCN dated February 6,2021 (“**the Impugned SCN**”) was issued by the Revenue Department (“**the Respondent**”) to Marg Erp Ltd. (“**the Petitioner**”) calling for the Petitioner to submit its evidence in support of its claims, wherein no specific allegation was mentioned that was needed to be addressed. Consequently, an order dated June 7,2022 (“**the Impugned Order**”) was issued under Section 73 of the Central Goods and Services Act 2017 (“**the CGST Act**”) demanding the total raise of INR 49,26,623/-. Prior to the Impugned SCN, another notice dated January 1, 2021 was issued, pointing out the excess Input Tax Credit (“**ITC**”) and called upon the Petitioner to appear before it on January 15, 2021. The Impugned SCN as well as the Impugned Order are unsigned.

Being aggrieved, this Petition has been filed.

The Respondent submitted that the Impugned SCN is relatable to the details as provided in the notice dated January 1, 2021.

Issue:

Whether the unsigned Impugned Order is sustainable?

Held:

The Hon'ble Delhi High Court in ***W.P.(C) 872/2023*** held as under:

- Observed that, the Impugned SCN did not spell out the allegation, which the Petitioner has to address.
- Stated that, the purpose of a SCN is to enable the Petitioner to respond to the allegations made against it. However, the Impugned SCN is vague and simply mentions that there may be issues with unpaid taxes, incorrect refunds, or misuse of ITC, without giving any specific details or reasons for taking any action.
- Relied on the judgement in the earlier matter of ***Railsys Engineers Private Ltd. & Anr. v. The Additional Commissioner of Central Goods and Services Tax [W.P.(C) 4712/2022 dated July 21, 2022]*** wherein it was held that unless digital signature is put by the issuing authority, an order will have no effect in the eyes of law and stated that, the Impugned Order cannot be sustained as it is unsigned.
- Further relied on the judgement of Hon'ble Bombay High Court in ***Ramani Suchit Malushte v. Union of India and Ors. [W.P.(C) 9331/2022 dated September 21, 2022]*** wherein it was held that, an unsigned notice or an order cannot be considered as an order.
- Set aside the Impugned Order.
- Stated that, the Impugned SCN need not be set aside as it is confined to the issues mentioned in the notice dated January 1,2021.
- Permitted the Petitioner to submit the reply within 2 weeks.
- Directed the Respondent to pass the fresh orders after providing the opportunity of hearing.

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