

## **SCN issued without reasons/allegations violates the Principles of Natural Justice**

The Hon'ble Delhi High Court in *Surender Kumar Jain v. Principal Commissioner & Anr. [W.P.(C) 17700/2022 dated January 25, 2023]* set aside the Show Cause Notice (“SCN”) and consequential order cancelling the GST registration of the assessee. Held that, a SCN must clearly state the allegations that the concerned noticee has to meet, being the essence of a SCN, any notice that does not qualify this criterion, cannot be considered as a SCN, which are not meant to be issued mechanically to comply with a formality, but to serve the principles of natural justice and to enable the concerned authority to take an informed decision. Further held that, the entire purpose of the SCN is to enable the noticee to respond to the allegations on the basis of which an action is proposed.

### **Facts:**

Surender Kumar Jain (“**the Petitioner**”) has challenged the SCN dated October 6, 2022 (“**the Impugned SCN**”) and the consequential order dated October 21, 2022 (“**the Impugned Order**”) cancelling the GST Registration of the Petitioner, on the ground that the reason for cancelling its Registration was not disclosed and therefore could not be addressed by the Petitioner.

The Petitioner contended that the only reason stated in the SCN for cancellation of the registration is “others”.

The Revenue Department (“**the Respondent**”) contended that the drop-down menu on the GST common portal were not appropriate. Therefore, the concerned officer had selected the option “others”, while issuing the Impugned SCN.

### **Issue:**

Whether the SCN not disclosing the reason for cancellation of GST Registration is sustainable?

### **Held:**

The Hon'ble Delhi High Court in ***W.P.(C) 17700/2022*** held as under

- Observed that, it is well settled that SCNs are not meant to be issued mechanically to comply with a formality, but the same are issued to serve the principles of natural justice and to enable the concerned authority to take an informed decision.
- Stated that, a physical SCN may be issued, if the purpose is not served electronically and the Respondent is unable to communicate the allegations.
- Held that the SCN must clearly state the allegations that the concerned noticee has to meet, being the essence of a SCN, any notice that does not qualify this criterion, cannot be considered as a SCN.
- Further held that, the entire purpose of the SCN is to enable the noticee to respond to the allegations on the basis of which an action is proposed.
- Set aside the Impugned SCN and the Impugned Order.
- Permitted the Respondent to issue a fresh SCN and take an appropriate decision in accordance with law, after affording the petitioner a reasonable opportunity to be heard.

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