

**SCN lacking reasons cannot be issued in a mechanical manner without any application of mind**

The Hon'ble Delhi High Court in *M/s. Spinns International v. Pr. Commissioner of Goods and Service Tax, [W.P.(C) 1989/2023 dated February 15, 2023]* has set aside the Show Cause Notice (“SCN”) and the consequential order for cancellation of GST Registration of the assessee, on the grounds that the SCN was bereft of any reasons and was issued in a mechanical manner without any application of mind. Held that, the purpose of a SCN is to enable the noticee to meet the allegations, on the basis of which an adverse action is proposed. Further, the procedure adopted by the Revenue Department is flawed and the order for cancellation of GST Registration of the assessee was passed in violation of principles of natural justice.

**Facts:**

M/s. Spinns International (“**the Petitioner**”) had applied for the amendment of certain particulars in the GST Registration, which were accepted by the Revenue Department (“**the Respondent**”) dated May 27, 2022. A SCN dated September 29, 2022 (“**the Impugned SCN**”) was issued by the Respondent proposing to cancel the Petitioner’s Registration and called upon the Petitioner to appear before it.

The Petitioner stated that the Impugned SCN did not specify any reasons and was incapable of being responded to. Consequently, the Petitioner’s GST Registration was cancelled vide the order dated October 11, 2022 (“**the Impugned Order**”) on the grounds that the Petitioner had neither appeared for a personal hearing nor submitted any reply.

The Petitioner, then filed an application seeking the revocation of the Impugned Order, which is pending, but the Respondent stated that a NOC from Anti-Evasion Head-Quarter must be obtained in order to proceed for the with the revocation application.

Being aggrieved this Petition has been filed.

**Issue:**

Whether the Impugned SCN and the Impugned Order passed for cancellation of GST Registration without specifying the reasons is maintainable?

**Held:**

The Hon'ble Delhi High Court in ***W.P.(C) 1989/2023*** held as under:

- Noted that, it is settled law that the purpose of a SCN is to enable the noticee to meet the allegations on the basis of which an adverse action is proposed.
- Observed that, the Impugned SCN did not specify any allegation, which was capable of being responded to and was issued in a mechanical manner without any application of mind.
- Opined that, the Impugned SCN cannot be considered as a SCN at all.
- Noted that, there is no statutory provision that requires a taxpayer to seek a NOC from any authority for moving an application for revocation of cancellation of its GST Registration.
- Stated that, the procedure adopted by the Respondent for cancellation of the GST Registration is flawed.
- Held that, the Impugned Order has been passed in violation of principles of natural justice.
- Set aside the Impugned SCN and the Impugned Order.
- Permitted the Respondent to initiate any fresh action in accordance with law.

**Relevant provision:**

**Section 29 of the Central Goods and Services Tax Act, 2017 ("the CGST Act"):**

*"Cancellation or suspension of registration.*

29. (1) *The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,—*

*(a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or*

*(b) there is any change in the constitution of the business; or*

*(c) the taxable person is no longer liable to be registered under section 22 or section 24 or intends to optout of the registration voluntarily made under sub-section (3) of section 25:*

*Provided that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.*

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

*(a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or*

*(b) a person paying tax under section 10 has not furnished the return for a financial year beyond three months from the due date of furnishing the said return; or*

*(c) any registered person, other than a person specified in clause (b), has not furnished returns for such continuous tax period as may be prescribed; or*

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*(d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or*

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

*Provided that the proper officer shall not cancel the registration without giving the person an opportunity of being heard.*

*Provided further that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.*

*(3) The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.*

*(4) The cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.*

*(5) Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed:*

*Provided that in case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher.*

*(6) The amount payable under sub-section (5) shall be calculated in such manner as may be prescribed.”*

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