

Shri Sushant Gupta v. The Commissioner Central Goods And 2 Others

WRIT TAX No. 398 of 2023 | Decision: 2023-04-11 | Allahabad High Court

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Court No. - 6

Case :- WRIT TAX No. - 398 of 2023

Petitioner :- Shri Sushant Gupta Respondent :- The Commissioner Central Goods And 2 Others Counsel for Petitioner :- Alok Saxena Counsel for Respondent :- Krishna Agarawal

Hon'ble Pankaj Bhatia,J.

Heard the counsel for the petitioner and the learned Standing Counsel.

The present petition has been filed by the petitioner challenging the order dated 31.01.2023 as well as the order dated 20.07.2022 passed by the respondent no.2 whereby the registration of the petitioner under GST was cancelled.

The counsel for the petitioner argues that on 14.02.2022, a show cause notice was served upon the petitioner in which the following ground was mentioned as the reason for proposing the cancellation of the registration number :

"THE DRC-03 FOR INTEREST LIABILITY DID NOT FILE BY THE TAXPAYER".

The petitioner gave a reply to the said show cause notice, however, an order came to be passed on 20.07.2022 giving the following reasons for cancellation of the registration :

"AS PER DY COMMISSIONER, RANGE-C SGST LETTER C.NO.1737, FIRM FOUND NON EXISTENCE AT THE GIVEN ADDRESS."

The petitioner preferred an appeal against the said order dated 20.07.2022 which was dismissed on the ground of limitation.

The counsel for the petitioner argues that the dismissal of the appeal on the ground of limitation is wholly unjustified. He argues that even otherwise the order dated 20.07.2022 is wholly arbitrary and illegal, inasmuch as in the show cause notice, the reasons proposed for cancelling the registration were different from the reasons on which the order cancelling the registration has been passed. He argues that the show cause notice is intended to give opportunity to the assessee to file a proper reply against the allegations levelled and it is incumbent upon the authority to decide the same only on the basis of the allegations levelled in the show cause notice whereas in the present case, the adjudicating authority has travelled beyond the allegations levelled against the petitioner in the show cause notice.

From the perusal of the show cause notice and the reasons assigned for cancelling the registration, it is clear that the two are different and distinct which is clearly arbitrary. Even otherwise, the reasons recorded for cancellation are not mentioned in Section 29 of the UPGST Act. Thus, holding that the order dated 20.07.2022 is wholly arbitrary and also in violation of the principles of natural justice and also contrary to the provisions of Section 29 of the Act, the same cannot be sustained. The order dated 20.07.2022 is quashed leaving it open to the respondents to pass a fresh orders, if so advised in accordance with law.

The writ petition stands allowed.

Order Date :- 11.4.2023 VNP/-

2023-04-11T17:50:28+0530 High Court of Judicature at Allahabad