

TAX INFO

Dated 13/02/2023

Latest update on GST Law: **RC cancellation order quashed as the SCN did not clearly state the allegations that the petitioner has to meet** as given in judgement by **Delhi High Court**.

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Name of Petitioner	Surender Kumar Jain
Name of Respondent	Principal Commissioner, Delhi North Zone
Authority	Delhi High Court
Date of Judgement	25.01.2023
Appeal No.	W.P.(C) 17700/2022

Brief Facts of the Case Law:

The SCN dated 06.10.2022 was issued calling upon the petitioner to show cause why its registration not be cancelled. Thereafter, an order dated 21.10.2022 cancelling the petitioner's registration was issued. The petitioner was aggrieved as the SCN does not disclose any reason or ground for proposing cancellation of the registration and hence the same could not be addressed by the petitioner. The impugned SCN indicates that the only reason for which the petitioner's registration was proposed to be cancelled was stated as, "others".

Contention of the Petitioner:

The impugned SCN fails to disclose any reason for the proposed action, and is incapable of eliciting a meaningful response from the petitioner. The petitioner had responded to the impugned SCN by a letter dated 18.10.2022 stating that the notice was issued without providing proper information.

Contention of the Department:

The portal of the concerned officer issuing the impugned SCN reflected the reason in the remarks column which does not form a part of the impugned SCN communicated to the petitioner. The concerned officer has to select a reason for issuance of the SCN, drop down menu in the GST common portal. Since none of the reasons in the drop-down menu were considered appropriate, the concerned officer had selected the option "others". However, in the remark's column, the concerned officer had stated that the registration is proposed to be cancelled on the basis of a letter dated 22.09.2022 and the said letter was also uploaded.

Findings and Decision of the Court:

It is well settled that SCN are not meant to be issued mechanically to comply with a formality; the same are issued to serve the principles of natural justice and to enable the concerned authority to take an informed decision. 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. The impugned SCN does not qualify to be considered as a SCN at all.

It is seen that the impugned SCN as issued to the petitioner does not have any remarks referring to a letter dated 22.09.2022. It also does not mention the contents of the said letter, which would enable the petitioner to discern the allegations against it. The concerned officer having no option but to choose from a drop-down menu, is clearly not the answer to the challenge laid by the petitioner. In the event, the GST portal cannot be adopted to include further explanation as to the reasons for which the proposed action is contemplated, show cause notices – such as the impugned SCN would be rendered meaningless and would fail to serve the purpose of issuing a show cause notice, at all. If the concerned authorities find that they are unable to communicate the allegations in respect of which the response is elicited by way of a show cause notice, by selecting the options as available on the electronic system; the concerned authorities may consider issuing a physical show cause notice. The show cause notice must clearly state the allegations that the concerned noticee has to meet. This being the essence of a show cause notice, any notice that does not qualify this criterion, cannot be considered as a show cause notice.

Thus, the impugned SCN dated 06.10.2022 and, consequentially, the impugned order dated 21.10.2022 were set aside.

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