

**HIGH COURT OF TRIPURA
AGARTALA**

Review Pet. No.51 of 2023

The State of Tripura and others

..... Petitioner(s)

V E R S U S

M.B. Trading

..... Respondent(s)

For Petitioner(s) : Mr. K. Dey, Addl. G.A.

For Respondent(s) : Mr. T.K. Deb, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE ARINDAM LODH**

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16/10/2023

Heard Mr. K. Dey, learned additional Government Advocate for the review petitioners and Mr. T.K. Deb, learned counsel for respondent. Vide impugned order dated 12.09.2023, the writ petition No. 564/2023 was disposed of at the motion stage with the following observations:

“6. A bare perusal of the show cause notice shows that no specific contraventions of GST Act or the Rules made thereunder have been alleged. The show cause notice is vague and it would be difficult for any noticee to submit a categorical reply, if contraventions are not clearly alleged. Meanwhile, petitioner's business continues to suffer because of suspension of the GST registration since February, 2023.

7. In such circumstances, at this stage, we deem it proper to direct the respondent No.3 to issue a fresh show cause notice alleging the specific contraventions of the TGST Act and the Rules made thereunder within a period of 1(one) week from today giving 1(one) week's time to the petitioner to offer his specific replies with supporting documents. Let a decision on the fresh show cause notice and the reply of the petitioner be taken within 2(two) weeks thereafter in accordance with law and be communicated through the prescribed mode to the petitioner, so that in case the decision is adverse to the petitioner, he can invoke the appellate forum within time. In case the timelines are not adhered, this Court would take serious view of the matter if brought to its notice.

8. Writ petition is disposed of.

9. Let it be made clear that we have not made any comments regarding the merits of the case”

[2] The instant review petition has been preferred on the solitary ground that the impugned Show Cause Notice dated 08.02.2023 in Form GST REG-17 [Annexure-2] was issued by the CGST authorities and not by the state tax authorities. The CGST authorities were not impleaded in the writ petition. Since the writ petition was disposed of at the motion stage itself this facts could not be traversed on the part of the respondent/review petitioner-State of Tripura. Since the order has to be complied with but not at the instance of the State of Tripura or SGST authorities, the instant review petition has been filed for recall of the order and a direction upon the writ petitioner to implead the proper and necessary parties.

[3] Learned counsel for the writ petitioner has drawn the attention of this Court to Annexure-1 of the writ petition which is a notice under Section 70 of the Central Goods and Services Tax Act, 2017 and submits that the Superintendent of State Tax (level 1), State Jurisdiction-Charge-IV/VIII/III, Agartala has himself stated that he is empowered under Section 70 of the CGST & SGST Tax Act, 2017 to summon the petitioner. Therefore, learned counsel for the writ petitioner submits that the show cause notice dated 08.02.2023 [Annexure-2] impugned was also by the empowered officer of the State of Tripura.

[4] This assertion is however not borne out from Annexure-2, the impugned Show Cause Notice. There is no quarrel on this issue since CGST authorities were not impleaded in the writ petition and SGST authorities disown their responsibility of having issued the impugned Show Cause Notice for cancellation of the GST registration of the petitioner.

[5] Having considered the submissions of learned counsel for the parties and after taking into account that proper and necessary parties like CGST

authorities were not impleaded in the writ petition, and the impugned Show Cause Notice has not been issued by the State Tax Authorities as averred, the impugned order dated 12.09.2023 is recalled. Consequently, the writ petition is restored to its original file. Learned counsel for the writ petitioner is permitted to implead the CGST authorities in the writ petition. The writ petition be placed under the appropriate heading on **23.11.2023**.

Accordingly, the instant review petition is allowed.

Pending application(s), if any, also stands disposed of.

(ARINDAM LODH), J

(APARESH KUMAR SINGH), CJ



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