NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WP(T) No. 93 of 2020

1. M/s Yamuna Trading Corporation A Hindu Undivided Family, Having Its Office At Flat No. 601, Block No. 28, Ashoka Ratan, Vidhan Sabha Road, P.O. And P.S. - Sankar Nagar, Town And Dist.-Raipur, In The State Of Chhattisgarh-492007, Represented Through Its Karta Sri Ravi Agrawal, Son Of Late Sri Om Prakash Gupta , Aged About 39 Years, Resident Of At Flat No. 601, Block No. 28, Ashok Ratan, Vidhan Sabha Road, P.O. And P.S. -Sankar Nagar, Town And Dist. - Raipur, In The State Of Chhattisgarh-492007, Who Is A Citizen Of India., District : Raipur, Chhattisgarh

---- Petitioner

Versus

1. The Commissioner Commercial Tax-GST, North Block, Sector-19, Atal Nagar, Raipur, Chhattisgarh.
2. The Assistant Commissioner, State Tax, Circle-I, Behind Rajbhawan, Civil Line,raipur, Chhattisgarh. **---- Respondents**

For Petitioner	:	Mr. Kartik Ram Kurmy, along with Mr. Dharmesh Shrivastava, Advocates
For Resp. No. 1	:	Mr. Ramakant Mishra, Asstt. S.G.
For State	:	Mr. Siddharth Dubey, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

06.10.2020

1. The challenge in the present is to the order dated 07.08.2020 Annexure P/1 which is a summary of the show-cause notice under the provisions of the CGST Act and the CGST Rules in-respect-of an alleged show-cause notice which was issued on 30.05.2020.

2. The contention of the learned counsel for the petitioner is that the impugned summary of show-cause notice has been issued without issuance of a show-cause notice as is required under Section 74(1) of the CGGST Act, 2017 and is also in violation of the Rules framed therein, wherein under the Act as well as under the Rules, it is mandatorily requires the authorities shall have to first serve the

petitioner with a show-cause notice as is required under Section 74(1) of the CGGST, Act 2017 and subsequently on the petitioner submitting a detailed reply to the show-cause notice, the same to be duly considered before taking a decision.

3. According to the petitioner, herein the said show-cause notice u/S 74 (1) of the Act has till date not been issued or in case, if it has been issued, it has never been served upon the petitioner. As such the petitioner never had an occasion for submitting his reply/ objection to the notice so issued, thus, has challenged the summary of the show cause notice issued subsequently on 07.08.2020.

4. At this juncture, the State Counsel does not dispute so far as statutory requirement under Section 74 (1) of the Act, 2017 is concerned. He only submits that, in the event, if it has not been issued, it has to and shall be issued and at the same time, if it has been issued, it shall be ensured that it is duly served upon the petitioner.

5. Given the said submission by the State Counsel, this Court is of the opinion that the matter need not be kept pending any further for further adjudication by this Court at this stage. The matter as such stands remitted back to the respondent no. 2 to ensure that a show-cause notice as is required u/S 74 (1) is duly issued and served upon the petitioner granting him some reasonable time to respond to the said show-cause notice and thereafter proceed in accordance with the provision of law.

6. Needless to mention that in case if a show-cause notice has been issued then under the said circumstances, the respondents should

ensure that it is duly served upon the petitioner enabling them to respond to the show-cause notice before further initiating with Annexure P/1.

7. Meanwhile, it is directed that the respondents shall not further pursue with Annexure P/1 dated 07.08.2020.

8. The present writ petition accordingly stands disposed off.

(P. Sam Koshy)
Judge