

WPA 14988 OF 2023

02.08.2023

Sl no. 5

Ct no. 2

P.M.

Jayanta Das

- Vs -

The State of West Bengal & Ors.

Mr. Mainak Bose,
Mr. Neeraj Kr. Pandey,
Mr. Shakeel Mohammed Akhter
... for the petitioner

Mr. K. K. Maiti,
Mr. Tapan Bhanja
.. for respondent CGST Authority

Mr. Anirban Ray, Ld. Govt. Pleader
Md. T.M.Siddiqui,
Mr. Saptak Sanyal
... for the State.

Heard learned advocates appearing for the parties.

By this writ petition, petitioner has challenged the impugned show-cause notice for cancellation of his registration dated 14th June, 2023 and at the same time by the aforesaid impugned show-cause notice the respondent authority concerned have suspended the registration of the petitioner, on the ground that the aforesaid show-cause notice is not sustainable in law since the impugned show-cause notice does not contain any material and does not disclose any reason with any supporting documents and by simply recording one line statement that the

registration was obtained by the petitioner by means of fraud, willful misstatement or suppression of facts.

Such type of notice without containing any reference of any material information is not sustainable in law since the allegation contained in the show-cause notice is vague and lacking material basis for issuance of such impugned show-cause notice and at the same time by the impugned show-cause notice itself taking coercive action of suspension of the petitioner's registration.

In support of his case, petitioner has relied on an unreported decision of this Court dated 3rd March, 2022 in WPA 2857 of 2022 (Galaxy Mechanical Engineering Equipments Private Limited & Anr. – Vs – Assistant Commissioner, Bally, West Bengal Goods and Services Tax & Ors.) relevant portion of the aforesaid order is recorded hereunder: -

“So far as part of the impugned show-cause notice for cancellation of registration, where registration of the petitioner has been suspended this part of the impugned order will remain suspended since the allegation in the impugned show-cause notice is very vague and one allegation without any basis and for the ends of justice a person against whom a show-cause notice has been issued, he

should be at least provided in brief the basis of such allegation so that the person can meet the allegations in show-cause notice. Impugned order of suspension will remain suspended till the reply to the impugned show-cause notice is given and hearing is given on the same and is disposed of by passing a reasoned and speaking order in accordance with law.”

Mr. Maiti, learned advocate appearing for the CGST authorities produces the record to establish existence reasons to believe for issuance of such impugned show-cause notice but he could not satisfy this Court as to whether any materials in detail or basis on which the impugned show-cause notice has been issued were furnished to the petitioner to meet the allegation contained in the impugned show-cause notice in an effective manner.

Considering the facts and circumstances of this case and submission of the parties and following earlier order of this Court dated 3rd March, 2023 in WPA 2857 of 2022 this matter is remanded back to the respondent authority concerned to furnish sufficient material to the petitioner on the basis of which the impugned show-cause notice has been issued within a week from date and petitioner shall

be at liberty to file objection/response to the impugned show-cause notice within four weeks from the date of receipt of such information or material supplied by the respondent and the respondent authority concerned on receipt of such response/reply against the show-cause notice shall consider and dispose of the same in accordance with law by passing a reasoned and speaking order and after giving an opportunity of personal hearing to the petitioner or his authorised representatives within eight weeks from the date of receipt of such reply to the impugned show-cause notice. Till the final order is passed on the reply filed by the petitioner against the impugned show-cause notice within the time stipulated herein the impugned order of suspension of the petitioner's registration will remain stayed and any further order of suspension will depend upon the final outcome of the fresh order to be passed by the respondent authority concerned.

With this observation and direction this writ petition being WPA 14988 of 2023 stands disposed of.

(Md. Nizamuddin, J.)