IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2023

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.No.22756 of 2023
and
W.M.P.Nos.22216 & 22217 of 2023

M/s.SP Metal Industries,
Represented by its Proprietor Kailash Vaishnav ... Petitioner

Vs

1. Superintendent of GST & CE,
   Salem Commissionerate,
   Hosur Division,
   Range – I,
   Thally Road, Hosur,
   Tamil Nadu – 635 109.

2. Goods and Services Tax Network,
   Worldmark-1, Aerocity,
   Indira Gandhi International Airport,
   New Delhi – 110 037. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari , to call for the records of the second respondent in the Impugned Show Cause Notice for cancellation of registration vide Reference No.ZA330723006497L dated 03.07.2023, quash the same and consequently, direct the second respondent to restore the registration.

For Petitioner : No Appearance

For Respondents : Mr.Rajnish Pathiyil
Senior Standing Counsel

ORDER

The petitioner is aggrieved by the Impugned Show Cause Notice dated 03.07.2023 bearing reference number:ZA330723006497L which is a system generated Show Cause Notice without giving any particulars.

2. In support of the present writ petition, the learned counsel for the petitioner has relied on the following three cases:-

i. ***Monit Trading Private Limited*** *vs.* ***Union of India & Ors****, 2023 (7) TMI 911;*
ii. ***M/s.Arhaan Ferrous and Non-Ferrous Solutions Private Limited*** *vs.* ***The Superintendent, the Principal Commissioner of Central Tax, The Union of India,*** *2023 (7) TMI 656;*
iii. ***Sarvoday Impex*** *vs.* ***Union of India,*** *2023 (6) TMI 632.*

3. Specifically a reference is made to the decision of the Hon'ble Gujarat High Court in **Sarvoday Impex** vs. **Union of India**, 2023 (6) TMI 632, wherein under similar circumstances the Court had interfered and quashed the Show Cause Notice.

4. When the case was taken up for hearing the learned Senior Standing Counsel for the respondents submits that although the notice issued was a system generated notice, an inspection was carried out at the premises of the petitioner on 22.06.2023 and thereafter notice was issued. It is therefore submitted that the writ petition is devoid of merits.

5. Heard the learned Senior Standing Counsel for the respondents and perused the Impugned Show Cause Notice dated 03.07.2023.

6. The Impugned Show Cause Notice dated 03.07.2023 reads as follows:-

Show Cause Notice for Cancellation of Registration

Whereas on the basis of information which has come to my notice, it appears that your registration is liable to be cancelled for the following reasons:

1 Section 29(2)(e)-registration obtained by means of fraud, wilful misstatement or suppression of facts

You are hereby directed to furnish a reply to the notice within seven working days from the date of service of this notice.

You are hereby directed to appear before the undersigned on 10.07.2023 at 10:00 AM.

If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex parte on the basis of available records and on merits.

please note that your registration stands suspended with effect from 03.07.2023.

7. The Impugned Show Cause Notice dated 03.07.2023 has not even specified the person to whom the reply has to be made by the petitioner.

8. Section 67(1) of the CGST Act, 2017 merely deals with authorization to an officer not below the rank of Joint Commissioner can inspect any place of business of the taxable person or the person engaged in business of transporting goods or the owner or the operator or warehouse or godown or in other place.

9. The authorization is again intended only to inspect the premises of an assessee. There is no basis for the alleged suppression of facts by the petitioner while obtaining registration to cancel the registration under Section 29(2)(e) of the CGST Act, 2017. No jurisdictional facts have been disclosed in notice that has been issued to the petitioner.

10. Taking into consideration the facts and circumstances of the case, the Impugned Show Cause Notice is to held as bad in law. It is therefore liable to be quashed. At the same time, liberty is given to the respondents to issue proper notice to the petitioner to Show Cause Notice why registration should not be canceled under Section 29(2)(e) of the CGST Act, 2017.

11. The Writ Petition stands allowed with the above observations and liberty. No cost. Consequently, connected miscellaneous petitions are closed.

09.08.2023

Neutral Citation: Yes/No
Speaking/Non-Speaking Order
rgm

To

1. Superintendent of GST & CE,
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   Worldmark-1, Aerocity,
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C.SARAVANAN, J.

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