

GST registration cannot be suspended for more than 2 months on the basis of SCN lacking any reason or fact

The Hon'ble Delhi High Court in *Shakti Shiva Magnets Private Limited v. Assistant Commissioner & Ors [W.P.(C) 1559/2022 dated January 31, 2022]* quashed the Show Cause Notice ("SCN") issued by the Revenue Department suspending GST registration of the assessee and directed to reissue a fresh SCN with all the relevant facts and reasons within a week's time regarding. Further, directed the Revenue Department to restore the assessee's GST registration and issue a practice direction so that in future, if any SCN for cancellation of GST registration is issued, the same is not bereft of any material particulars or reasons.

Facts:

Shakti Shiva Magnets Private Limited ("**the Petitioner**") has filed this petition against the SCN issued dated November 11, 2021 ("**the impugned SCN**") by Revenue Department ("**the Respondent**") due to which the Petitioner's registration was suspended for more than 2 months with no sufficient explanation or reason or fact.

The Petitioner contended that as per Rule 21A of the Central Goods and Services Tax Rules, 2017 ("**the CGST Rules**") that describes the conditions needed to be fulfilled for suspending a registration and Rule 22(3) of the CGST Rules wherein it is provided that an assessee's registration can be suspended only for 30 days and the cancellation proceeding has to be concluded within the same period.

Further, the Respondent prayed for 3 days' time to issue a fresh detailed SCN to the Petitioner and for fifteen days' time to decide the same.

Issue:

Whether the Respondent can suspend the registration of the Petitioner with no sufficient explanation, reason or fact under the CGST Rules?

Held:

The Hon'ble Delhi High Court in ***W.P.(C) 1559/2022 dated January 31, 2022*** held as under:

- Observed that the impugned SCN contains no fact or reasons and is not supported by any document based on which the Petitioner's registration could be suspended.
- Quashed the impugned SCN.
- Directed the Respondent to restore the Petitioner's GST registration. However, allowed the Respondent to issue a fresh SCN mentioning all the relevant facts and reasons within a week.
- Further directed the Respondent to issue a practice direction so that in future, if any SCN for cancellation of GST registration is issued, the same is not bereft of any material particulars or reasons.

Relevant Provisions:

Rule 21A of the CGST Rules:

"Suspension of registration

(2) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29 or under rule 21, he may suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration under rule 22."

Rule 22(3) of the CGST Rules:

“Cancellation of registration

*Where a person who has submitted an application for cancellation of his registration is no longer liable to be registered or his registration is liable to be cancelled, the proper officer shall issue an order in **FORM GST REG-19**, within a period of thirty days from the date of application submitted under sub-rule (1) of rule 20 or, as the case may be, the date of the reply to the show cause issued under sub-rule (1) or under sub-rule (2A) of rule 21A, cancel the registration, with effect from a date to be determined by him and notify the taxable person, directing him to pay arrears of any tax, interest or penalty including the amount liable to be paid under sub-section (5) of section 29.*

(Author can be reached at info@a2ztaxcorp.com)

DISCLAIMER: The views expressed are strictly of the author and A2Z Taxcorp LLP. The contents of this article are solely for informational purpose and for the reader’s personal non-commercial use. It does not constitute professional advice or recommendation of firm. Neither the author nor firm and its affiliates accepts any liabilities for any loss or damage of any kind arising out of any information in this article nor for any actions taken in reliance thereon. Further, no portion of our article or newsletter should be used for any purpose(s) unless authorized in writing and we reserve a legal right for any infringement on usage of our article or newsletter without prior permission.