

TAX INFO

Dated 06.10.2022

Latest update on GST Law: **SCN without detailed allegations do not serve the proper opportunity of being heard** as given in judgement by **Bombay High Court**.

We expressly disclaim liability to any person in respect of anything done in reliance of the contents of this publication.

Name of Petitioner	Archana Textile Corporation
Name of Respondent	The State of Maharashtra
Court	BombayHigh Court
Date of Judgement	21.09.2022
Appeal No.	WRIT PETITION NO. 11022 OF 2022

Brief Facts of the Case Law:

An Assessment Order dated 31st December 2021 was challenged on various grounds. One of the principal grounds raised is that in the impugned order observations and allegations about fake invoices and fake forms have been made against petitioner but show cause notice issued was without any of these allegations and without any details. Therefore, the order has been passed without giving an opportunity to petitioner to effectively deal with the allegations and therefore the order passed is contrary to the principles of natural justice.

The show cause notice dated 5th November 2019 is a bad show cause notice. The show cause notice does not contain any details of any sale or claims or deductions which petitioner has incorrectly made or claimed or recorded in an incorrect manner. It was duty of Department to have given all the details to petitioner.

Findings and Decision of the Court:

Every show cause notice issued by Department shall contain every detail required to effectively respond to the show cause notice. It is mandatory to give the details. In the impugned order, the authorities have commented even on those terms/sales details of which were not provided during the personal hearing. The Department should have provided all the details alongwith the show cause notice. This is a serious lapse and perhaps, the officers do not have proper training adjudication matters or they are not even aware about the legal provisions or need to follow principles of natural justice.

Therefore, the impugned order alongwith show cause notice was quashed and set aside. The Department may issue a fresh show cause notice to petitioner containing every detail by which the authorities feel tax is sought to be evaded by not recording or recording in an incorrect manner or petitioner has claimed or deducted incorrectly and then final assessment order be passed after giving personal hearing to the petitioner.

Suresh Aggarwal, Advocate

Compliance & Litigation under GST

Address: House No. 54, Pocket A-3, Sector-5, Rohini- 110085

Phone: 91-9810032846; 011 - 45131427

Email: sureshagg@gmail.com

Website: <http://www.sureshtaxation.com>