

TAX INFO

S. NO. 022 Dated 23.02.2023

Latest update on GST Law: **RC Cancellation without stating a reason in SCN/Order is cryptic in nature** as given in judgement by **Gujarat High Court**.

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Name of Petitioner	Gigamade Machinerics Private Limited
Name of Respondent	State of Gujarat
Authority	GujaratHigh Court
Date of Judgement	10.02.2023
Appeal No.	R/Special Civil Application No. 17599 of 2022

Brief Facts of the Case Law:

The State Tax Officer issued a SCN dated 09.05.2022 in REG-17/31 in exercise of powers under Section 29 of the CGST Act, 2017 read with Rule 22(1) of CGST Rules, 2017. The SCN simply stated the following as the reason for issuance of the notice - "Taxpayer found non-functioning / not existing at the principal place of business". The notice was not accompanied by any document substantiating the allegation made against the petitioner in the SCN. Also, the body of notice did not elaborate on the reason for the issuance of the SCN and did not specify any particulars. The notice therefore in fact did not disclose the basis for suo moto initiating process for cancellation of registration. In reply to the said SCN, the petitioner has specifically stated that the notice does not give any reasons for initiating process of cancellation of registration of the petitioner and has been issued by a person who is not authorized in law to initiate process for cancellation of registration. The State Tax Officer passed an order on 04.06.2022, cancelling the registration of the petitioner firm. The petitioner submits that again, the order of cancellation did not record any reasons for cancellation of GST registration and only mentioned that the order of cancellation has been passed - "As per attached sheet".

Findings and Decision of the Court:

Recently, this Court had an occasion to deal with the issue of the procedural lapse on behalf of the State Authorities while dealing with the matters related to cancellation of registration under the GGST Act, 2017. The present matter was squarely covered by the decision in the case of **Aggrawal Dyeing and Printing Works decided on 24.02.2022 in Special Civil Application no. 18860 of 2021**. On bare perusal of the contents of the SCN as well as the impugned order, it is found that the said SCN is absolutely vague, bereft of any material particulars and the impugned order is also vague and a non-speaking order. It cannot be disputed that with cancellation of registration, the dealer is liable to both civil and penal consequences. The Authority ought to have at least referred to the contents of the show cause and the response thereto, which was not done. The authority ought to have followed the principles of natural justice, which has not been done in the present case. Not only the order is non-speaking but cryptic in nature. In such circumstances, the principles of natural justice stand violated and the order needs to be quashed.

Therefore, the SCN dated 09.05.2022 as well as the consequential order dated 04.06.2022 were quashed and the respective GST registration stood revived.

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>