

Court No. - 7

Case :- WRIT TAX No. - 2746 of 2025

Petitioner :- M/S Kanha Shree Steels

Respondent :- Assistant Deputy Commissioner Cgst Division-Vi Ghaziabad And 3 Others

Counsel for Petitioner :- Suyash Agarwal

Counsel for Respondent :- A.S.G.I.,C.S.C.,Gaurav Mahajan,Saumitra Singh

Hon'ble Piyush Agrawal,J.

Heard Shri Suyash Agarwal, learned counsel for the petitioner, Shri Gaurav Mahajan, learned counsel for the Union of India and learned ACSC for the State - respondents.

The instant writ petition has been filed against the impugned orders dated 28.03.2025 and 01.05.2025 passed by the respondent no. 1 to the extent wherein the respondent no. 1 has remanded the matter to the Assistant/Deputy Commissioner for verification of facts relating to the petitioner.

Learned counsel for the petitioner submits that on 05.09.2024, the respondent no. 2 carried out a formal inquiry on the business premises of the petitioner. Thereafter, on 14.09.2024, a show cause notice was issued to the petitioner for cancellation of registration, to which the petitioner submitted its reply. Thereafter, vide order dated 26.09.2024, the registration of the petitioner was cancelled. Thereafter, the petitioner moved an application for revocation of the cancellation of registration, which was rejected vide order dated 31.12.2024. Against the order dated 31.12.2024, the petitioner preferred an appeal before the respondent no. 3, which was allowed vide order dated 28.03.2025, subject to verification of facts. Thereafter, the respondent no. 2, vide letter dated 28.04.2025, requested the respondent no. 1 to take cognisance of the adverse facts, to which the respondent no. 1, vide impugned order dated 01.05.2025, informed the petitioner that the cancellation of the registration may not be revoked in absence of fulfillment of compliance laid down in the order dated 28.03.2025.

Learned counsel for the petitioner further submits that the appeal of the petitioner was allowed holding that the show cause notice and the order cancelling the registration are not meeting the standard, but while allowing the appeal, a fresh direction was issued to the Assistant/Deputy Commissioner for verification of facts relating to the petitioner and on fulfilment of the conditions by the petitioner, the registration may be revoked. He further submits that the appellate authority has no power to remand the matter or give direction as given in the impugned order. Once the authority has come to the conclusion that the show cause notice for cancellation of registration and the order of cancellation are cryptic and no reason was assigned, a second inning cannot be given to the State authorities. He further submits that

once the notice and the order were quashed and the same were never challenged by the State authority, further action cancelling the registration cannot be taken. In support of his submission, he has placed reliance on the judgement of the Division Bench of this Court in ***M/s P.N.C. Construction Company Limited Vs. State of U.P. & Others*** [2002 UPTC 262].

Per contra, Shri Mahajan supports the impugned orders and submits that the petitioner has failed to discharge its burden. He further submits that while cancelling the registration of the petitioner, it was found that the petitioner was not conducting any business from the disclosed place. The said fact was also found on verification at the subsequent stage and therefore, the impugned orders have rightly been passed.

After hearing learned counsel for the parties, the Court has perused the record.

It is nobody's case that by the impugned order, the authority has come to the conclusion that neither show cause notice, nor the order specify the conditions as required or any reason in detail has been given. The relevant part of the impugned order dated 28.03.2025 is quoted below:

"5.7. I find that, it is trite law that a show cause notice must clearly indicate the reasons in detail for proposing the adverse action in order to enable the noticee to respond to the same. Clearly, the impugned show cause notice does not meet this standard. Further, a show cause notice must set out the allegation in detail. Thus, I find that the impugnet show cause notice and order, being without reasons in detail, is cryptic and deserves to be quashed and set aside. In this regard, I also find support from the pronouncement made in following cases:-

(i) VIBHU BAKHRU AND AMIT MAHAJAN, JJ. CUTHBERT OCEANS LLP VERSUS SUPERINTENDENT OF CGST, ROHINI [W.P. (C) NO. 10421 OF 2023 AND C.M. APPL. NO. 40335 OF 2023, DECIDED ON 8-8-2023]: Held: Superintendent of CGST issued impugned show cause notice proposing to cancel petitioner's registration on ground that registration was obtained by means of fraud, wilful mis-statement or suppression of facts Apart from this reason, no other reason or particulars was disclosed. Petitioner filed a response belatedly after respondent had passed impugned order cancelling petitioner's GST registration retrospectively Petitioner had referred to transactions carried out by him and had quizzed respondent as to what was fraud in that transaction HELD: This was a clear case of violation of principles of natural justice -Instant writ petition was to be entertained and impugned show cause notice as well as impugned order were to be set aside.

(ii) OTTIMO VISUALS Versus COMMISSIONER OF GST, DELHI WEST [W.P. (C) No. 6991 of 2023, decided on 16-08-2023]: Held: It is trite law that a show cause notice must clearly indicate the reasons for proposing the adverse action in order to enable the noticee to respond to the same.

5.9 In light of the foregoing facts, I hold that the cancellation of registration of the appellant is liable to be revoked subject to the verification by the jurisdictional Assistant/Deputy Commissionen of the facts and fulfillment of the conditions by the appellants."

Bare perusal of the aforesaid findings shows that the authority has come to the conclusion that without any reason in detail, cryptic order was passed. Once the

authority has come to the conclusion that the order impugned in the appeal cannot be sustained, there was no justification for giving further direction. Section 107 of the GST Act does not empower the appellate authority to pass an order giving a second inning to the Revenue. Sub-section (11) of section 107 of the GST Act, provides that Appellate Authority shall, after making such further inquiry as may be necessary, pass such order, as it thinks just and proper, confirming, modifying or annulling the decision or order appealed against but shall not refer the case back to the adjudicating authority that passed the said decision or order.

In view of the above, part of the impugned order dated 28.03.2025 is set aside to the extent it remands the matter to the Assistant/Deputy Commissioner for verification of facts relating to the petitioner. Consequently, the impugned order dated 01.05.2025 is set aside.

It is further provided that the respondents shall be at liberty to act in accordance with law for taking fresh course of action, if available under the law.

The writ petition succeeds and is allowed.

Order Date :- 19.8.2025
Amit Mishra