

Issue Involved

Issued show cause notice being vague disabling the assessee from replying to it.

Held that

Since show cause notice issued to assessee was vague to extent of not communicating relevant information and material, same was to be quashed with a liberty to competent authority to proceed in matter in accordance with law

Case Reference

[2023] 150 taxmann.com 333 (Madhya Pradesh)

“

Facts of the Case:

Revenue:

- The State argued that the petitioner was not handicapped in providing a response to the SCN, as evidenced by their reply dated 25.04.2019 and the additional return. The State contended that the grounds of the SCN being vague were not raised in the memo of appeal.

Court:

- Although the petitioner did not specifically raise this ground before the appellate authority, it was emphasized that Section 74 of the GST Act imposes an obligation on the revenue to issue a speaking SCN that enables the assessee to respond adequately. It was pointed out that the show cause notice lacked relevant material, information, and details of the Input Tax Credit (ITC) transaction in question.

“

Petitioner:

- The petitioner filed a writ petition challenging orders dated 03.05.2019 and 30.08.2019 issued by the Appellate Authority and Joint Commissioner, State Tax, respectively. The principal ground of challenge was that the SCN issued under Section 74(1) of the GST Act, was vague and failed to communicate relevant information and material.
- The petitioner argued that this vagueness disabled them from responding effectively, and as a result, all subsequent actions and the dismissal of the appeal were vitiated in law.

Contributed By



CA Vaibhav Jain

Partner

vaibhavjain@mehragoelco.com



CA Prashant Agrawal

Assistant Manager- Taxation

prashantagrawal@mehragoelco.com

- The petitioner referred to a similar case, Sidhi Vinayak Enterprises v. State of Jharkhand, where the Jharkhand HC had held that an SCN must fulfill the requirements of proper notice under Section 74(1) of the GST Act.

Summary:

In the case of Exide Industries Ltd, the Madras HC set aside an adjudication order passed by the Deputy Commissioner without granting the requested time to the assessee to submit their reply to queries raised. The court found that the order violated guidelines stated in Circular No. 12/2022, which requires granting reasonable time for compliance and considering adjournments on a case-by-case basis with sound reasons. The court directed the concerned authority to afford the assessee a fair opportunity to submit their explanation within a reasonable time and to pass fresh orders based on the entire explanation provided. The decision favored the assessee.

Notes to News & Updates:

Please note that Facts of the Case and Queries are as summarized by us based on our reading of case law and our interpretation based on law prevailing as on the judgement date. No assurance is being given on the correctness of the facts, and our opinion / analysis is given solely based on facts provided herein above.

Please note that this news and update is prepared by author for spreading knowledge, and the view is a matter of interpretation, and law is subject to various interpretations. The application of law and impact can vary widely based on the specific facts and interpretation of statute. Our views expressed above is based on facts and assumptions indicated above. No assurance is given that the authorities and/or Courts will concur with our views. We do not accept any liability, for any loss or damage caused as a result of any action taken on the above opinion expressed by us.

We hope you will find the above in order and we shall be too glad to provide any other assistance as may be required. In case you are looking specific expert help in relation to matters connected to this update or otherwise, please feel free to write to us on vaibhavjain@mehragoelco.com ; mg@mehragoelco.com

New Delhi

503, Chiranjiv Tower, 43,
Nehru Place, New Delhi 110019. India
+91-11-2622-3712, 26226933

Pune

Flat No 03, Plot No 28,
Gowardhan Housing Society,
Maharshi Nagar, Pune – 411037

Gurugram

GLOBAL BUSINESS SQUARE
Building No. 32, Sector 44,
Institutional Area, Gurgaon, 122002, India
Tel : +91-124-4786200

Chennai

Sri Raghava Nilayam, Old No 38 , New No
28, West Circular Road, Mandavelipakkam,
Chennai, Tamil Nadu, India, 600028

Mumbai

305-306, Garnet Palladium,
Goregaon (East), Mumbai,
Maharashtra-400063

Dubai (UAE):

R-3035, Reef Tower,
Cluster O, Jumeriah Lake Tower,
Dubai, UAE.

