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By Nidhi, Advocate



Judgment No.: 035
Dt.: 27-12-2023



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Judgment Deals With

Section/Rule	Section 29
Authority	Delhi High Court
Case Name	M/s. SK Enterprises VS Principal Commissioner Of GST, West Delhi
Dated	20 th December, 2023

Brief Facts:

The impugned order dated 19.07.2023 was passed cancelling the petitioner's GST registration with effect from 23.05.2023. The impugned order was passed pursuant to the SCN dated 05.07.2023. A plain reading of the SCN indicates that the petitioner's GST registration was proposed to be cancelled for obtaining the registration by means of fraud, wilful misstatement or suppression of facts. Additionally, the petitioner's GST registration was suspended with effect from the date of the SCN, that is, with effect from 05.07.2023.

Contention of Petitioners:

A plain reading of the SCN indicates that it does not set out any specific reason for proposing to cancel the petitioner's GST registration. Although it is alleged that the petitioner has obtained registration by means of fraud, wilful misstatement or suppression of facts. It neither specifies the alleged fraud nor the misstatement alleged to have been made by the petitioner. It also provides no clue as to the facts allegedly suppressed by the petitioner.

Findings & Decision of the Court:

It is trite that a show cause notice must clearly set out the allegations on the basis of which an adverse action is proposed, to enable the noticee to meaningfully respond to the same. Clearly, the SCN in the present case fails to satisfy the said standard.

The impugned order is also not informed any reason and it merely mentions that the same has been issued in reference to the SCN. It is noticed that the petitioner's registration has been cancelled with retrospective effect from 23.05.2023. Neither the SCN nor the impugned order provides any reasons for doing so.

Thus, the SCN as well as the impugned order were set aside & the Department was directed to restore the petitioner's GST registration.

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