

HIGH COURT OF TRIPURA
AGARTALA

WP(C) No.89/2021

Dayamay Enterprise

..... *Petitioner(s)*.

Vs.

State of Tripura and 3 Ors.

..... *Respondent(s)*.

For Petitioner(s) : Mr. Biplabendu Roy, Advocate.

For Respondent(s) : Mr. P K Dhar, Sr. Govt. Advocate,
M. H Sarkar, Advocate,
Ms. S Nag, Advocate.

HON'BLE THE CHIEF JUSTICE MR. AKIL KURESHI
HON'BLE JUSTICE MR. S G CHATTOPADHYAY

O R D E R

22/02/2021

(Akil Kureshi, CJ).

Petitioner has challenged a communication dated 16th December 2020, issued by the Superintendent of Taxes calling upon the petitioner to appear for personal hearing why the petitioner's registration under GST Act not be cancelled. The petitioner has also questioned the action of the respondents in blocking the petitioner's registration on the portal of the department.

The facts are that the petitioner is a proprietor, engaged in purchase and sale of consumables and other taxable goods for which purpose the petitioner enjoys registration under the State as well as

Central GST Acts. On 16th December 2020, the Superintendent of Taxes issued a show cause notice to the petitioner for cancellation of such registration which notice reads as under :

“Show Cause Notice for Cancellation of Registration

Whereas on the basis of information which has come to my notice, it appears that your registration is liable to be cancelled for the following reasons :

- 1. Non compliance of any specified provisions in the GST Act or the Rules made thereunder as may be prescribed.*

You are hereby directed to furnish a reply to the notice within seven working days from the date of service of this notice.

You are hereby directed to appear before the undersigned on 24/12/2020 at 11:30

If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex parte on the basis of available records and on merits.

Please note that your registration stands suspended with effect from 16/12/2020.”

The petitioner did not reply to the said show cause notice within 7 days permitted however replied on or around 1st January, 2021. Thereafter, the Superintendent of Taxes has so far not passed any order in connection with the said show cause notice. The petitioner finds that

his GST account is blocked on the GST portal. Thereupon the petitioner has filed this petition.

Learned senior counsel Mr. P K Dhar for the Government submitted that the petitioner has substantial dues of the department which despite notices he has not paid.

Whatever be the tax demand of the department against the petitioner, the action under challenge cannot survive the test of law. The impugned notice has been issued only for cancellation of registration, that too without citing any particular reason. The reason stated is picked up from the statute itself namely, non-compliance of any specified provisions of GST Act or the Rules made thereunder. Without specifying which provisions of the Act or the Rules and in what manner the petitioner has approached, granting hearing to the petitioner would be an empty formality. This apart, admittedly, so far no order cancelling the petitioner's GST registration has been passed. If that be so, without resorting to the power of suspending the registration, if there is any, the respondent surely cannot block the petitioner's GST account on the official portal. Any such action would prevent the petitioner from carrying on his business in lawful manner. Such an action would have the effect of suspension of the petitioner's registration.

Under the circumstances, impugned show cause notice dated 16th December 2020 is quashed on the ground of being vague and imprecise. Further, the respondents are directed to unblock the petitioner's GST account on its official portal. This is without prejudice to the steps that the department make take for recovery of its dues in accordance with law or for breach any of the requirements under the law as the rules and regulations permit.

With these observations and directions petition is disposed of. Pending application(s), if any, also stands disposed of.

(S G CHATTOPADHYAY, J)

(AKIL KURESHI, CJ)

