Part-127-One Pager Snapshot to Latest Case- Vidya Coal Depot *v.* Additional Commissioner Grade (Appeal) [2023] 155 taxmann.com 526 (Allahabad)

CA Arpit Haldia

Subject	Held
Facts	**In the instant** case, On 24-9-2022, a SCN was issued proposing to cancel the registration of the petitioner for the reason assigned therein with the direction of the TTZ authority and written direction by JC (SIB) B Agra for cancellation of registration of all coal depot. Registration of the petitioner was cancelled *vide* impugned order dated 14-10-2022 with effect from 18-8-2022. Feeling aggrieved by the aforesaid order, the petitioner preferred an appeal, but the same has also been rejected by order dated 1-12-2022.
Contention of petitioner	**The petitioner has** not violated any provision of GST Act; more precisely, contained in Section 29 read with Rule 21 of UPGST Act and Rules framed therein. In absence of any violation of provision in GST, registration cannot be cancelled. It was further submitted that on the date fixed, the authority ought not to have proceeded *ex-parte*, if petitioner did not appear, and if the order was passed on the next date, the same cannot sustain in the eye of law.
Observation by the Court	**Constitution of TTZ Authority-**TTZ authorities have been constituted by Ministry of Environment and Forest, Government of India in exercise of power conferred by sub-clause 1 & 3 of Section 3 of Environment (Protection) Act, 1986, which is known as the Taj Trapaezium Zone Pollution (Prevention and Control) Authority. In exercise of power under sections 5 & 24 of the said Act, the direction can be issued in the interest of protecting the environment.
	The Court observed that petitioner was coal trader and from his business activities did not emanate any hazardous thing which is bad for the environment. The Court also further observed that in the meeting dated 11-5-2022 of TTZ Authority, direction for tax authorities was for passing an appropriate order against 26 coal dealers only and not for all coal dealers of Agra. It was a matter of common knowledge that under the GST Act, A/c book are to be maintained by every person. There was no finding at any stage to show that A/c book were not maintained by the petitioner. In absence of such finding, no violation of UPGST Act can be made out. Once, there was no violation of Section 29 read with rule 21, any action taken for cancellation of registration cannot sustain. It was wrongly mentioned that no reply was submitted by petitioner, but the next line mentions the reply date.
	Relevant Provisions of Environment (Protection) Act-On perusal of Section 5 of Environment (Protection) Act, for the protection of environment, a direction can be issued to officer or any authority and they shall be bound by the said direction in respect of industry only. From bare perusal of the Section 24 of the Environment (Protection) Act, 1986, it was evidently clear that if an offence is punishable under the act and the offender was also found guilty of said offence, offender shall be liable to punish under other act and not under Environment (Protection), 1986 Act. In other word, if any other enactment was in operation, then environment act had overriding effect, but for punishment, it will be under that Act. Any direction given by TTZ Authorities for cancellation of registration had to be under GST Act. GST authorities cannot blindly follow direction of TTZ Authorities.
Court cannot import provisions in the statutes to supply any assumed deficiency	**UOI v. Ind- swift Laboratories Limited, (2011) 4 SCC 635-** The Court in this case relied upon **Commissioner of Sales Tax, U.P. v. Modi Sugar Mills Ltd. reported in (1961) 2 SCR 189** wherein it was stated that in interpreting a taxing statute, equitable considerations are entirely out of place. Nor can taxing statutes be interpreted on any presumptions or assumptions. The court must look squarely at the words of the statute and interpret them. It must interpret a taxing statute in the light of what is clearly expressed: it cannot imply anything which is not expressed; it cannot import provisions in the statutes so as to supply any assumed deficiency.
State authority cannot be permitted to supplement fresh reasons by means of affidavit	**Mohinder Singh Gill v. The Chief Election Commissioner, New Delhi AIR 1978 SC 851-**Relying upon the said Judgement wherein it was held that State authority cannot be permitted to supplement fresh reasons by means of affidavit, the court rejected that appendix annexed as Annexure-24 to the registration certificate as it was never been brought on record before the first appellate authority or the same was never communicated to the petitioner, as he could not reply the same. Therefore, it appeared to the court that to improve the case of revenue, such appendix was annexed for the first time in counter affidavit. Therefore, appendix along with the cancellation order cannot be any aid to respondent authority.
If Assessing Officer proceeds *ex-parte*, he either should fix another date for hearing or pass the order on that date itself	**M/S Videocon D2h Ltd. v. State of U.P. and 3 Ors. (Writ Tax No. 243 of 2016), -** The court also relied upon the said judgement wherein it was held that on the date when the assessee did not appear, Assessing Authority had the option to proceed *ex-parte* or fix another date, which in the instant case did not happen. **If the Assessing Officer proceeded *ex-parte*, he could have fixed another date for *ex-parte* hearing or after recording the absence of the petitioner could have proceeded *ex-parte* and passed an assessment order on that date itself**, which in the instant case did not happen. Therefore, any assessment order made on the next date becomes erroneous, as no date was fixed for making an assessment. Such assessment order passed without due notice is apparently in gross violation of the principles of natural justice. The principles engrafted in *Sangram Singh* v. *Election Tribunal*, AIR 1955 SC 425 is squarely applicable. Thus, in the instant matter court was also of the opinion that, no order of cancellation was passed on the date fixed for 29-4-2022, but thereafter on 14-10-2022 for which neither any notice nor any communication was made to the petitioner. Further, in the cancellation of registration order.
vague SCN without any allegation or evidence, clearly is violative of principles of administrative justice.	**Drs. Wood Products Lucknow v. State of U.P., 2022 NTN (Vol.80)-309-** The Court also relied upon the decision wherein it was stated that the SCN only contains the ground that "tax payer found non-functioning/non-existing at the principal place of business' is at the first instance, clearly depicts the opaqueness of the allegations levelled against the petitioner. The said SCN did not propose to rely upon any report or any inquiry conducted to form the opinion and on what basis was the allegation levelled that the tax payer was found non-functioning; it did not indicate as to when the inspection was carried. A vague show-cause notice without any allegation or proposed evidence against the petitioner, clearly is violative of principles of administrative justice.
Held	The Court thus held that, the impugned order by the assessing authority dated 14-10-2022 & appellate authority date 1-12-2022 could not sustain in the eye of law and thus quashed the order and the writ petition was allowed.