

DESAI SAKSENA & ASSOCIATES

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Friday Tax Alert

From:

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Assessee who was unaware of SCN issued and order passed after cancellation of registration to be permitted to file appeal: HC

Summary

Where Assessee's registration was cancelled and thereafter a show cause notice was uploaded on GST portal imposing liability upon Assessee under section 73 of the GST Act, no reply was filed by Assessee to SCN and thus an ex-parte demand order was passed by respondent, since Assessee did not have knowledge of SCN and subsequent proceedings arising therefrom, **Assessee was to be permitted to file appeal under section 107 of the GST Act.**

Facts of the case:

1. The present petition has been filed by the Petitioner- M/s Blackmelon Advance Technology Company Pvt. Ltd. seeking quashing of the DRC-07 order passed by Respondent No. 2- Sales Tax Officer, Class-II/AVATO, Ward 79: Zone 7, Delhi on 17th August, 2024 bearing reference number: ZD070824061121O (hereinafter, 'the Order'). Vide the order, a demand of Rs. 1,28,13,505/- has been raised against the Petitioner.
2. The case of the Petitioner Firm is that it was earlier registered with the principal place of business at A-1/7, F/F, A Block, Krishna Nagar, East Delhi, Delhi, 110051 since 01st July, 2017.
3. However, a Show Cause Notice was issued upon the Petitioner on 1st September, 2020 by Respondent No. 2 bearing Reference Number: ZA070920001495R for cancellation of registration for the reason that "the firm was not found functioning at the given address as per GSTI Report".
4. The same was responded to by the Petitioner. However, subsequently, the order of cancellation of registration bearing Reference Number: ZA070622019908C was issued by Respondent No. 2 on 6th June, 2022 on the ground that the firm is not functioning from Delhi.
5. Subsequently, a Show Cause Notice (hereinafter, the SCN) dated 21st May, 2024 bearing reference no. ZD070524019705E appears to have been uploaded on the portal by Respondent No. 2 wherein liability has been imposed upon the Petitioner for FY 2019-20 u/s 73 of the Delhi Goods and Services Tax Act, 2017 (hereinafter, the Act).

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6. However, it is submitted on behalf of the Petitioner that the said SCN never came to the knowledge of the Petitioner. In view of the fact that no reply was filed by the Petitioner to the said SCN and the GST portal was also not accessed by the Petitioner, an order has been passed by Respondent No. 2 on 17th August, 2024. The said order records that opportunity for personal hearing, as well as for filing a reply was given to the Petitioner and since no one appeared and no reply was filed, the demand has been raised ex parte.
7. The Learned counsel for the Petitioner submits that this order came to the knowledge of the Petitioner only on 29th January, 2025 when accidentally, the Petitioner was checking the GST portal for a different purpose. The Petitioner then tried to file an appeal against the order which could not be filed as the time limit for the same had expired.
8. The Learned counsel for the Respondents submits that the allegation that the notice was uploaded in the 'Additional Notices and Orders' tab is incorrect as the portal has been changed as of January, 2024.
9. The Court has heard the parties. Under Section 107 of the Act, the limitation prescribed for challenging an order is three months from the date on which the said decision or order is communicated to the concerned persons. 11. In the present case, however, a substantial demand has been raised against the Petitioner and for whatever reason, the Petitioner has not had an opportunity to either file a reply or to attend a personal hearing. The Petitioner ought to have been a little more cautious with the proceedings. In fact, the address of the Petitioner which is mentioned in the memo of parties is also the old place in Delhi. However, ld. counsel for the Petitioner submits that the Petitioner has now shifted to Noida.

Conclusion:

1. The grounds for seeking permission to file the appeal against the order was that the Petitioner did not have knowledge of the SCN and the subsequent proceedings arising therefrom, this Court, while exercising jurisdiction under Article 226 of the Constitution of India is of the opinion that an opportunity ought to be afforded to the Petitioner to assail the order on merits.

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2. Accordingly, let the Petitioner file an appeal before the Appellate Authority under Section 107 of the Act within a period of 30 days. If the same is filed within 30 days it shall not be dismissed on the ground of being barred by limitation. The adjudication thereon shall take place on merits and in accordance with law.
3. In favour of the Assessee.

[2025] 174 taxmann.com 305 (Delhi) – Blackmelonadvance Technology Company (P.) Ltd. v. Commissioner of State Goods and Services Tax Delhi.

CBIC issued instructions for Grievance Redressal Mechanism against processing of application for GST registration

Summary:

Reference is invited to **instruction No. 3/2025, dated 17-4-2025** issued by Central Board of Indirect Taxes and Customs ("Board") for processing of GST registration application.

Any applicant whose Application Reference Number (ARN) has been assigned to Central jurisdiction and who has a **grievance in respect of any query raised** in contravention of the said instructions, **regarding grounds of rejection of application** etc. may **approach the jurisdictional Zonal Principal Chief Commissioner/Chief Commissioner**.

In order to provide a quick and effective grievance redressal mechanism to applicants, the following instructions are being issued:

- i. Principal Chief Commissioner/Chief Commissioner of CGST Zones may **publicize an email address on which the applicants can raise their grievances**. Wide publicity may be given to this email id.
- ii. The applicants may send **grievances containing ARN details, jurisdiction details (Centre/State) and issue in brief on that email address**.
- iii. In case where **grievance received pertains to State Jurisdiction**, the office of **Principal Chief Commissioner/Chief Commissioner** shall **forward the same to the concerned State jurisdiction and a copy endorsed to the GST Council Secretariat**.

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- iv. **Principal Chief Commissioner/Chief Commissioner may ensure timely resolution of grievances** received by them and intimate the applicants regarding the same. In case where queries raised by the officer are found to be proper, the applicants may be suitably advised.
- v. **Principal Chief Commissioner/Chief Commissioner may submit a monthly report on the status of grievance redressal to DGGST** who would compile the same and put up for perusal of the Board.

Instruction No. 4/2025-GST [F. No. CBIC-20016/24/2025-GST] dated 02.05.2025.