

SCN to indicate as to what fraud is alleged to have been committed and which statement made by petitioner was alleged to be a misstatement; and which fact was suppressed by the petitioner.

Impugned order was passed pursuant to SCN which indicated that petitioner's GST Registration was proposed to be cancelled for the reason that "In case, Registration has been obtained by means of fraud, wilful misstatement or suppression of facts." Revenue contended that petitioner's GST registration was cancelled as it was not found to be existing at its principal place of business.

The Court held that SCN was cryptic and did not afford the petitioner any sufficient information as to the grounds on which the petitioner's registration was proposed to be cancelled. Although, SCN alleged that registration was obtained by fraud, wilful misstatement or suppression of facts, there was no material to indicate as to what fraud is alleged to have been committed; which statement made by the petitioner was alleged to be a misstatement; and which fact was suppressed by the petitioner. It was also not clear whether petitioner's registration was cancelled on account of fraud, wilful misstatement or suppression of facts, since all three reasons were mentioned. SCN did not disclose that petitioner's Registration was proposed to be cancelled with retrospective effect.

The impugned order also did not reflect any ground to support the decision to cancel GST registration with retrospective effect. For the reason that, petitioner was not found existing on its place of business, Court observed that petitioner had made an application for change of its registered principal place of business. The application was allowed and amended certificate of GST Registration was issued. Admittedly, concerned officer had inspected the old premises and not the new premises as reflected in the certificate of the GST registration. Thus, impugned order canceling the petitioner's GST registration was set aside.

IN THE **HIGH COURT OF DELHI** AT NEW DELHI



**W.P.(C) 11311/2023 and CM Nos. 43972/2023, 43973/2023
& 43974/2023**

**M/S FREQUENT LOGISTICS SERVICES
PVT. LTD.**

..... Petitioner

Through: Mr Nishit Agrawal, Ms Meena
Rawat, Ms Kanishka Mittal and
Ms Vanya Agrawal, Advocates.

Versus

**COMMISSIONER GOODS AND SERVICE
TAX DEPARTMENT AND ORS.**

..... Respondents

Through: Mr R. Ramachandran, Senior
Standing Counsel.

CORAM:

**HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MR. JUSTICE AMIT MAHAJAN**

ORDER

31.08.2023

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1. The petitioner has filed the present petition, *inter alia*, impugning an order dated 08.06.2022 (hereafter '**the impugned order**'), whereby the petitioner's GST registration was cancelled.

2. The impugned order was passed pursuant to a Show Cause Notice dated 20.05.2022 (hereafter '**the Show Cause Notice**'). A plain reading of the Show Cause Notice indicates that the petitioner's GST Registration was proposed to be cancelled for the following reason:

"In case, Registration has been obtained by means of fraud, wilful misstatement or suppression of facts."





3. The petitioner was called upon to respond to the said Show Cause Notice within a period of seven working days and was also directed to appear before the proper officer on 23.05.2022 at 04:11 PM. The Show Cause Notice also reflected that the petitioner's GST registration was suspended with effect from 20.05.2022.

4. As is apparent from the above, the Show Cause Notice is cryptic and did not afford the petitioner any sufficient information as to the grounds on which the petitioner's registration was proposed to be cancelled. Although, it is alleged that the registration had been obtained by fraud, wilful misstatement or suppression of facts, there was no material to indicate as to what fraud is alleged to have been committed; which statement made by the petitioner is alleged to be a misstatement; and which fact was suppressed by the petitioner.

5. It is also not clear whether the petitioner's registration was cancelled on account of fraud, wilful misstatement or suppression of facts, since all the three reasons were mentioned.

6. The petitioner did not file a reply to the said Show Cause Notice within the stipulated time. In the meanwhile, the proper officer passed the impugned order cancelling the petitioner's registration with retrospective effect from 27.07.2017. The only reason stated in the said order for cancelling the petitioner's registration reads as under:

"1. Reply not receive. Hence, the registration Suo Moto cancelled."

7. It is clear from the above that the impugned order is not informed by reason as it does not reflect any intelligible reason as to why the petitioner's GST registration was cancelled. Further, the



Show Cause Notice did not disclose that the petitioner's GST Registration was proposed to be cancelled with retrospective effect.

The impugned order for the cancellation of the GST registration also does not reflect any ground to support the decision to cancel the GST registration with retrospective effect.

8. The petitioner filed an appeal against the impugned order before the Appellate Authority. However, the appeal was rejected by an Order-in-Appeal dated 09.06.2023, on the ground of delay.

9. It is submitted that the petitioner's GST registration was cancelled as it was not found to be existing at its principal place of business. However, it is noted that the petitioner had made an application dated 19.08.2021 for change of its registered principal place of business. This application was allowed and the amended certificate of the GST Registration was issued. Admittedly, the concerned officer had inspected the old premises and not the new premises as reflected in the certificate of the GST registration issued on 19.08.2021.

10. In view of the above, the present petition is allowed. The impugned order cancelling the petitioner's GST registration is set aside. The Show Cause Notice suspending the petitioner's registration is also set aside.

11. It is clarified that the concerned officers are not precluded from taking such steps which they consider necessary albeit, in accordance with law.

12. The present petition is allowed solely on the ground that the



Show Cause Notice falls short on the standards required of a Show Cause Notice. At the least, the Show Cause Notice must clearly indicate the reasons for which an adverse order is proposed to be passed in order for the noticee to respond to the same.

13. The impugned order is set aside for the reason that it is not informed by reason.

14. All pending applications are also disposed of.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

AUGUST 31, 2023
RK