

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

WP(T) No. 51 of 2021

Cheema Local Carrier & Construction -**Versus**- Assistant Commissioner SGST

09.08.2021	<p>Mr. Bhishma Ahluwalia, Advocate for the Petitioner.</p> <p>Mr. Siddharth Dubey, Dy. Govt. Advocate for the State.</p> <p>Heard</p> <p>Challenge in this petition primarily is of three issues : (i) there has been provisional attachment of the Bank Account, (ii) the registration certificate under the GST is canceled and, (iii) input credit ledger is blocked. The provisional attachment was made by an order dated 17.02.2021 (Annexure P-3) and cancellation of the registration as passed on 26.03.2021 (Annexure P-7).</p> <p>It has been contended that before cancellation of the registration certificate under Section 29 of the CGST Act, the ingredients of Rule 21 of the CGST Rules, which mandate the ground of cancellation of registration must exists; whereas in this case the omnibus show cause notice was issued wherein no particulars were shown as to which contravention has been made. Furthermore, it is stated that the blocking of the bank account was made on 17.02.2021 under Section 83 of the CGST Act and reply having been filed on 23.02.2021 thereafter no hearing was given as per Rule 159(5) of the CGST Rules, which mandate that when the objection is filed to the account against attachment, the Commissioner after affording an opportunity of being heard may release the said property/ account. Whereas in this case, no hearing was given which resulted into closure of the business. He further submits that the input tax credit ledger was also blocked without</p>

following the procedure as provided under the law. Therefore, he submits that blocking of the bank account and cancellation of registration may be stayed so that the petitioner at least may start his business.

Reply in this case has not been filed till date.

Primarily it shows after attachment of the bank account on 17.02.2021, the reply was filed by the petitioner on 22.03.2021 and it appears the same has not been decided. Therefore, prima facie it would be non-compliance of Rule 159(5) of the CGST Rules. Now, with respect to the cancellation of registration, in the order, prima facie the reasons have not been assigned as mandated under Rule 21 of the CGST Rules.

In case of ***Valerius Industries v. Union of India***, reported in **2019 (30) G.S.T.L. (Guj.)** the High Court has observed that any opinion of the authority in this regard for attachment of the like nature there has to be some relevance in order to establish if an official examination as to the sufficiency of the ground on which the authority may act in forming its opinion which follows the provisional attachment of the bank account and cancellation of registration. The existence of relevant material would be pre-conditional to the formation of opinion.

Considering the aforesaid situation, if the reply is not filed, the attachment order of the bank account and cancellation of registration do not show that what grounds were existing to pass such order. Since the business of the petitioner stands closed for attachment of the bank account and cancellation of registration, strict compliance is required as per the Act and Rules.

In view of the same, it is directed that the attachment of the Bank

Account Nos. (i) Dena Bank – 110513031151 (ii) Dena Bank – 110511031034 and (iii) State Bank – 33581320693, which was made as per the order dated 17.02.2021 shall remain stayed and further the order for cancellation of registration dated 26.03.2021 shall remain stayed, till the next date of hearing.

This interim order shall not preclude the department to proceed in accordance with law and to the mandate of the Act and since the submission made at the bar that the petitioner is cooperating in the further enquiry and he is regularly participating, the department would be free to take any action if the petitioner deliberately avoids any hearing given to them.

List in the second week of September, 2021.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge