

**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

BEFORE

HON'BLE SHRI JUSTICE SHEEL NAGU

&

HON'BLE SHRI JUSTICE AMAR NATH (KESHARWANI)

WRIT PETITION No.27395 OF 2022

BETWEEN:-

**REAN WATERTech PRIVATE LIMITED, A
COMPANY INCORPORATED UNDER THE
PROVISIONS OF THE COMPANY ACT, 2013
HAVING ITS OFFICE AND PRINCIPAL PLACE OF
BUSINESS AT H.No.55, KOLAR ROAD, BHOPAL
(MADHYA PRADESH) PIN -462042 THROUGH ITS
AUTHORISED SIGNATORY Mr. SHAILENDRA
SINGH KUSHWAH (ASSISTANT MANAGER) S/O
SHRI JAGDISH KUSHWAH, AGED ABOUT 32
YEARS.**

.....PETITIONER

(BY SHRI PRATEEK JAIN - ADVOCATE)

AND

**1. THE COMMISSIONER OF STATE TAX,
STATE OF MADHYA PRADESH, MADHYA
PRADESH GOODS AND SERVICE TAX, INDORE,
HAVING HIS OFFICE AT MOTI BUNGLOW
COMPOUND, M.G. ROAD, NEAR GANDHI HALL,
INDORE, MADHYA PRADESH 452001.**

**2. THE DEPUTY COMMISSIONER OF STATE
TAX, STATE OF MADHYA PRADESH, SEONI
CIRCLE, CHHINDWARA DIVISION, MADHYA
PRADESH GOODS AND SERVICE TAX, AZAD**

**CHOWK, DEEWAN CHIPRA, CHHINDWARA,
MADHYA PRADESH 480001.**

**3. THE STATE OF MADHYA PRADESH,
DEPARTMENT OF FINANCE, THROUGH THE
PRINCIPAL SECRETARY, MANTRALAYA,
BHOPAL (M.P.) 462011.**

.....RESPONDENTS

(BY SHRI DARSHAN SONI – GOVERNMENT ADVOCATE)

Reserved on : *12/09/2023*

Pronounced on : *29/11/2023*

This petition having been heard and reserved for orders, coming on for pronouncement this day, Hon'ble Shri Justice Sheel Nagu pronounced the following :

ORDER

This writ petition u/Art. 226 of the Constitution assails the legality, validity and propriety of show-cause notice dated 20.04.2022 issued by Deputy Commissioner of State Tax, Seoni Circle, Chhindwara Division (Annexure-P/3) and the consequential impugned order dated 29.08.2022 (Annexure-P/4) passed u/S 73 of GST Act issued by Deputy Commissioner of State Tax, Balaghat, Chhindwara Division, Jabalpur Zone, Madhya Pradesh on the sole ground that the show-cause notice is non-speaking and thus insufficient for the petitioner/assessee to prepare an effective reply and defend himself thereby violating the principles of natural justice.

1.1. In view of the aforesaid ground of violation of principles of natural justice having been raised, petitioner has directly approached this Court

without availing the statutory remedy of appeal available u/S. 107 of the GST Act.

2. Learned counsel for rival parties are heard on the question of admission so also final disposal.

3. The petitioner/assessee was issued with a show-cause notice dated 22.04.2022 (Annexure-P/3) u/S. 73 of the M.P. GST Act, 2017 *qua* the tax period April, 2020 to March, 2021 proposing a demand of Rs.46,72,08,082/- (including tax, interest and penalty). Along with the said show-cause notice (Annexure-P/3), a summary of show-cause notice was appended which reveals “brief facts of case and grounds” as scrutiny of return. This is followed by details of tax, interest and penalty demanded given in tabular illustration. The said show-cause notice is further appended with Form GST DRC-01 as prescribed by Rule 142(1) of GST Rules mentioning scrutiny u/S. 61, Rule 99(1) against the column “brief facts of the case”, followed by table mentioning the amount of tax, interest and penalty due.

3.1 The impugned order passed u/S 73 on 29.08.2022 also contains the details of tax, interest and penalty demanded in tabular illustration with the direction that the said amount be deposited latest by 28.09.2022 to avoid initiation of coercive steps of recovery. This is further appended by the summary of order.

4. After having heard learned counsel for rival parties and having perused Section 73 of the GST Act, Rule 142 of the CGST Rules and Form GST DRC-01, it is obvious that the impugned show-cause notice contains enough material to enable petitioner/assessee to submit an effective reply so as to prevent the said show-cause notice from being sacrificed at the alter of principles of natural justice. The details in the show-cause notice satisfy the

per-requisites prescribed in Form GST DRC -01 which is statutory in nature. Thus, the contents of the show-cause notice cannot be termed as deficient or inadequate preventing the petitioner/assessee to prepare and file an effective reply and defend himself before the Proper Officer.

5. If petitioner is of the view that certain additional document/material is required for filing an effective reply to the same, then petitioner could have very well demanded the same from the Proper Officer by disclosing the relevancy of such evidence/material to the issue involved. On receipt of any such representation by the petitioner/assessee, the Proper Officer could have applied his mind to the relevancy of the document/material sought by the petitioner/assessee and if the Proper Officer would have been of the view that the said material/document is relevant to the issue involved, then the same could have been provided to the petitioner/assessee.

5.1 This Court has already taken this view in a detailed order passed in **Writ Petition No.26693/2022 (*Raymond Limited Vs. Union of India and others*)**.

6. However, what is noticeable in this case is that no such representation was made by the petitioner pursuant to the show-cause notice and, therefore, it is presumed that petitioner has no grievance against the show-cause notice.

7. In view of the aforesaid discussion, this Court is afraid that it cannot help the petitioner due to petitioner not having raised the objection of the show-cause notice being deficient.

7.1 Accordingly, this Court sees no reason to interfere in this matter especially in view of the non-availed statutory remedy of appeal u/S 107 of the M.P. GST Act, 2017.

8. Though petitioner has relied upon *214 9 SCC 105 (Gorkha Security Services Vs. Government (NCT of Delhi) and others)* and *2021 SCC OnLine Tri 443 (OPC Assets Solutions Pvt. Ltd. Represented by its Authorized Signatory Rahul Tiwari Vs. State of Tripura Represented by the Principal Secretary, Finance Department, Government of Tripura and others)* but since this Court has dealt with the specific provision of Section 73 of M.P. GST Act, 2017 in the aforesaid detailed decision in the case *Raymond Limited (supra)*, this Court refrains from entering into the prolixity of deciding the applicability or otherwise of the said decisions relied upon by the petitioner, which turn on different set of facts.

9. Accordingly, no case for interference is made out and the present petition stands **dismissed**.

(SHEEL NAGU)
JUDGE

(AMAR NATH (KESHARWANI))
JUDGE