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

+ **W.P.(C) 17626/2022**

Date of Decision : 25.01.2023

VDR COLORS AND CHEMICALS PVT. LTD.
THROUGH ITS DIRECTOR MR. SURENDER KUMAR
JAIN Petitioner

Through: Mr. Surender Kumar &
Mr. A.K. Babbar, Advs.

versus

PRINCIPAL COMMISSIONER, DELHI NORTH ZONE
& ANR. Respondents

Through: Mr. Atul Tripathi, Sr.
Standing Counsel CBIC
with Mr. Arvind Kumar,
Superintendent, GST for
R-1 & 2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE AMIT MAHAJAN

VIBHU BAKHRU, J (Oral)

1. The petitioner has filed the present petition, *inter-alia*, impugning a Show Cause Notice dated 06.10.2022 (hereafter '**impugned SCN**') calling upon the petitioner to show cause why its registration under the Goods and Services Tax Act, 2017 not be cancelled. The petitioner also impugns an order dated 21.10.2022 (hereafter '**the impugned order**') cancelling the petitioner's registration pursuant to the said Show Cause Notice.

2. The petitioner has assailed the impugned SCN on the ground that it does not disclose any reason or ground for proposing cancellation of its registration and therefore none that could be addressed by the petitioner.

3. It is necessary to refer to the impugned SCN, which indicates that the only reason for which the petitioner's registration was proposed to be cancelled was stated as, "*others*".

4. Clearly, the impugned SCN fails to disclose any reason for the proposed action, and is incapable of eliciting a meaningful response from the petitioner. It is well settled that Show Cause Notices are not meant to be issued mechanically to comply with a formality; the same are issued to serve the principles of natural justice and to enable the concerned authority to take an informed decision. The entire purpose of the Show Cause Notice is to enable the noticee to respond to the allegations on the basis of which an action is proposed. Tested on the aforesaid anvil, the impugned SCN does not qualify to be considered as a Show Cause Notice at all.

5. The petitioner had responded to the impugned SCN by a letter dated 18.10.2022, *inter-alia*, stating that the notice was issued without providing proper information.

6. According to the respondent, the portal of the concerned officer issuing the impugned SCN reflected the reason in the remarks column which does not form a part of the impugned SCN communicated to the petitioner.

7. Mt Atul Tripathi, learned counsel appearing for the respondent submitted that the concerned officer has to select a reason for issuance of the Show Cause Notice, drop down menu in the GST common portal. Since none of the reasons in the drop down menu were considered apposite, the concerned officer had selected the option "*others*". However, in the remarks column

uploaded by the concerned officer, he had stated that the registration is proposed to be cancelled on the basis of a letter dated 22.09.2022 and the said letter was also uploaded.

8. It is seen that the impugned SCN as issued to the petitioner does not have any remarks referring to a letter dated 22.09.2022. It also does not mention the contents of the said letter, which would enable the petitioner to discern the allegations against it.

9. The submissions that the concerned officer had no option but to choose from a drop down menu, is clearly not the answer to the challenge laid by the petitioner to the impugned SCN. In the event, the GST portal cannot be adopted to include further explanation as to the reasons for which the proposed action is contemplated, show cause notices – such as the impugned SCN – would be rendered meaningless and would fail to serve the purpose of issuing a show cause notice, at all. If the concerned authorities find that they are unable to communicate the allegations in respect of which the response is elicited by way of a show cause notice, by selecting the options as available on the electronic system; the concerned authorities may consider issuing a physical show cause notice.

10. The show cause notice must clearly state the allegations that the concerned noticee has to meet. This being the essence of a show cause notice, any notice that does not qualify this criterion, cannot be considered as a show cause notice.

11. In view of the above, the impugned SCN dated 06.10.2022 and, consequentially, the impugned order dated 21.10.2022 are set aside.

12. This order does not preclude the concerned officers to issue a show cause notice afresh and take an appropriate decision in accordance with law after affording the petitioner a reasonable opportunity to be heard.

13. The petition is allowed in the aforesaid terms.

VIBHU BAKHRU, J

AMIT MAHAJAN, J

JANUARY 25, 2023

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