

Court No. - 10

Case :- WRIT TAX No. - 543 of 2022

Petitioner :- M/S Sharp Print Ways

Respondent :- State Of U P And 2 Others

Counsel for Petitioner :- Shubham Agrawal

Counsel for Respondent :- C.S.C.

Hon'ble Rohit Ranjan Agarwal,J.

1. Sri Shubham Agrawal, learned counsel for the petitioner and Sri Rishi Kumar, learned Standing Counsel for the respondents-State are present.

2. This writ petition has been filed assailing the cancellation of registration of the petitioner-Firm under the Goods and Services Tax Act as well as order passed by Appellate Authority dated 27.10.2021.

3. According to the petitioner, he was registered under the Central Goods and Service Tax Act, 2017 (*hereinafter called as "Act of 2017"*). The Assessee was regularly filing his return from July, 2017 to November, 2020. A show cause notice was issued on 10.02.2021 to the petitioner on the ground that he was not functioning/not existing at the principal place of business. The notice remained unreplied and the cancellation order was passed by the Assessing Authority on 06.03.2021. A statutory appeal was preferred by the petitioner, which was rejected by the order impugned on the ground that Assessee, during the survey, which was conducted on 10.02.2021, i.e. the date on which the show cause notice was issued, was not running the business on the place mentioned. It was further noted by the first Appellate Authority that the rent agreement, which was brought to the notice by the petitioner dated 01.01.2021, after examination, was found that the place of business of the petitioner has changed and the rent agreement was for 11

months. No intimation was given to the Department about change of place of business.

4. Learned Standing Counsel submitted that intimation regarding change of business should have been given to the Department by the Assessee and when the survey was conducted, it was found that the petitioner was not running his business from the premises, which was noted with the Department.

5. I have heard Sri Subham Agrawal, learned counsel for the petitioner, Sri Rishi Kumar, learned Standing Counsel for the State and perused the material on record.

6. From perusal of the order passed by first Appellate Authority it transpires that the order, which runs into five pages, actually takes note of the entire ground taken in the memo of appeal by the Assessee and it covers almost four pages. In one paragraph, the appellate authority has recorded its reasoning stating therein that on the date, when the survey was conducted, the Assessee was not running business on the place, which was informed to the Taxing Department when the registration was done. Apart from this fact, no other finding has been recorded by the first Appellate Authority on the ground which have been taken in the appeal.

7. This Court finds that the first Appellate Authority is duty bound to consider all the grounds raised in the appeal. Before adjudicating any matter on merit, the first Appellate Authority should consider each and every ground so taken and record its findings. The order passed by first Appellate Authority on 27.10.2021 is a cryptic order and the cancellation of registration of GST has a ramification effect on the business of the petitioner.

8. It is also not in dispute to the Department that GST return was filed by the Assessee right from its implementation since July, 2017 till November, 2020. The first Appellate Authority once it had taken note about the rent agreement, should have taken into consideration that the place of business of the Assessee has changed and an opportunity should have been given to the Assessee to place all material before it and the authority should have recorded findings before rejecting the appeal confirming the order of cancellation of registration.

9. In view of the said fact, the order passed by first Appellate Authority dated 27.10.2021 is unsustainable in the eyes of law and the same is hereby set aside. The matter is remitted back to the Appellate Authority to reconsider the appeal on merits and deal with each and every grounds so taken in the appeal. The Appellate Authority shall complete this exercise and decide the appeal within one month from the date of production of a certified copy of this order before him.

10. The writ petition stands partly allowed.

Order Date :- 9.1.2023

Kushal