

**HIGH COURT OF TRIPURA  
AGARTALA**

**WP(C) No.269/2023**

Tejaswita Motors

.....Petitioner(s).

V E R S U S

The State of Tripura & others

.....Respondent(s).

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For Petitioner(s) : Mr. B.N. Majumder, Sr. Advocate,  
Mr. B. Paul, Advocate,  
Mr. Sujit Chandra Sen, Advocate.

For Respondent(s) : Mr. Karnajit De, Addl. G.A.

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**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH  
HON'BLE MR. JUSTICE ARINDAM LODH**

**Order**

**01/05/2023**

Heard Mr. B.N. Majumder, learned senior counsel assisted by Mr. B. Paul, learned counsel for the petitioner and Mr. Karnajit De, learned Addl. Government Advocate for the respondents-State.

2. By the impugned show-cause notice dated 21.02.2023 bearing reference No.ZA160223001550C (Annexure-3), the GST registration of the petitioner has been suspended by respondent No.3, the Superintendent of Taxes, Sales Tax Officer Class II, Ambassa Headquarter, Dhalai.

3. Mr. B.N. Majumder, learned senior counsel appearing for the petitioner, submits that petitioner is a regular taxpayer under the GST regime having registration under the State Goods and Services Tax Act (SGST Act, for short) and Central Goods and Services Tax Act (CGST Act, for short) both bearing No.16AULPD6158M2Z6. He has been filing returns periodically and annually i.e. GSTR-1, GSTR2A/2B, GSTR-9 and 9C etc. and also GSTR-3B. He has been paying tax within due time. There is no reliable finding by the respondent No.3 as to any suppression or mis-declaration in payment of GST for any tax period. Impugned show-cause notice in Form GST REG-17 (Annexure-3) only mentions "*Fails to pay any amount of tax, interest or penalty to the account of the Central/State Government beyond a period of three months from the date on which such payment becomes due*". The petitioner was asked to appear before the respondent No.3 on 28.02.2023 at 11 a.m. with a reply. However, no demand has been quantified at the time of issuance of the notice. Petitioner appeared on 28.02.2023 before the office of the respondent No.3, Superintendent of Taxes, Sales Tax Officer Class II, Ambassa Headquarter, Dhalai and sought to know the contraventions committed by him. Petitioner was informed that a clarification in detail would be sent to the petitioner soon. Petitioner also requested respondent No.3 for restoration of his

registration. Except the show-cause notice dated 21.02.2023, no detailed clarification relating to determination of tax liability along with interest and penalty has been furnished for the petitioner to make a proper reply or to pay the amount of tax, interest and penalty.

4. Learned senior counsel for the petitioner has also referred to Section 29(2) of the TSGST Act, 2017 and submitted that the relevant provision does not contemplate suspension of the registration for non-payment of tax. The only consequence arising therefrom could be payment of interest thereupon or a proceeding under the relevant provisions of Section 73/74 of the TSGST Act. Petitioner's business continues to suffer on account of the improper action of the respondent No.3 in complete violation of Article 19(1)(g) of the Constitution of India. The impugned show-cause notice is also in contravention of the provisions of the TSGST Act or CGST Act. The impugned show-cause notice being vague and cryptic suffers from fundamental infirmities as the noticee is precluded from furnishing a proper reply thereto. In such circumstances, interference has been called for.

5. Mr. Karnajit De, learned Addl. Government Advocate appearing for the respondents-State, submits that the writ petition is premature. Petitioner has approached against a show-cause notice which is

not subject to challenge on any jurisdictional grounds. Petitioner may be relegated before the proper officer/respondent No.3 to offer his reply and if so directed, an appropriate decision would be taken by the proper officer within a stipulated time period.

6. We have considered the submissions of learned counsel for the parties, taken note of the pleadings on record and also gone through the impugned show-cause notice.

7. Without delving into the merits of the case of the parties, it may, however, be observed that the show-cause notice lacks in any detail of the alleged contravention, i.e. the tax period, the amount of tax or interest unpaid by the petitioner for any definite tax period. However, the petitioner has also stated that on the date fixed, i.e. on 28.02.2023 on his appearance no details have been provided and as such, no adjudication order has been passed on the impugned show-cause notice till date which has caused continuous sufferance of the business of the petitioner since 21.02.2023.

In such circumstances, we are of the opinion that at the first instance, the petitioner should appear before the proper officer/respondent No.3 with his reply taking all available grounds of fact and law, if any, on **06.05.2023** at 10.30 a.m.

The proper officer/respondent No.3 would, on appearance of the petitioner and submission of his reply to the impugned show-cause notice take a decision in accordance with law after giving an opportunity to the petitioner for personal hearing, if any adverse order is to be passed.

Needless to say that such decision be taken within one week of the appearance of the petitioner. If the proper officer/respondent No.3 is of the opinion that the impugned action is not warranted under law or the petitioner has adequate explanation for the alleged charges made in the impugned show-cause notice, the respondent No.3 would proceed to revoke the suspension of the petitioner within the same timeframe. If otherwise, the decision affects the petitioner adversely, he would be at liberty to seek remedy as permissible in law.

We once again make it clear that we have not gone into the merits of the case of the parties and any observations made hereinabove shall not prejudice the case of the petitioner.

8. The writ petition is disposed of in terms of observations made hereinabove.

Pending application(s), if any, also stands disposed of.

9. Learned counsel for the State shall communicate this order to the proper officer/respondent No.3, Superintendent of Taxes, Sales Tax Officer Class II, Ambassa Headquarter, Dhalai by tomorrow.

10. Let a copy of this order be supplied to both the parties by tomorrow.

**(ARINDAM LODH), J**

**(APARESH KUMAR SINGH), CJ**

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