Nice Enterprises v. The Deputy Commissioner (ST), STU-I, Charminar Circle & Others

GST registration – Show cause notice under Section 29(2)(e) of the CGST Act, 2017 merely reproducing the statutory clause, without facts – Natural justice violated – Notice set aside.

Date of Order: July 30, 2024
Case Law No: GIB-GSTAT-2024-23
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CASE DESCRIPTION / SUMMARY

Background

The issue before the High Court was whether a show cause notice dated 24.05.2024, issued under Section 29(2)(e) of the CGST Act, 2017 (registration obtained by fraud, wilful misstatement or suppression of facts), could be sustained when it only reproduced the statutory clause and disclosed no factual basis, and the petitioner's GST registration stood suspended pursuant to it. M/s Nice Enterprises, Hyderabad, challenged the notice by way of a writ petition, pressing a singular contention: that the notice was cryptic, was no notice in the eyes of law, and deprived it of the opportunity to file an effective reply. The Special Government Pleader (State Tax) supported the notice but fairly submitted that the factual basis on which it was issued was not disclosed in it.

Final Verdict

The Division Bench (Sujoy Paul and Namavarapu Rajeshwar Rao, JJ.) observed that it had earlier interfered with similar notices lacking necessary factual details, and found substance in the petitioner's argument that such a notice runs contrary to natural justice and prevents the registered person from filing an effective reply. Relying on the Supreme Court's rulings that a notice must be precise and unambiguous, and that reasons need not be detailed but natural justice must still be complied with, the Court expressed concern at regularly seeing such notices issued mechanically, suddenly suspending a taxpayer's business with an adverse impact on livelihood and Article 21. It held: "Mere reproduction of offending clause or enabling provision cannot be a reason to give stamp of approval to a show cause notice which lacks minimum essential details." Accordingly, the notice dated 24.05.2024 was set aside, liberty being reserved to the respondents to proceed against the petitioner in accordance with law, and the writ petition was allowed without costs. The State's counsel assured the Court that the order would be brought to the notice of the authorities

concerned.

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