

IMPORTANT GST UPDATES



Issued in case of Shradha Overseas Private Limited by Calcutta High Court
M.A.T No. 1860 of 2022 | Date: 16-12-2022

Ruling

Calcutta High Court held that the transaction cannot be suspected merely on the grounds that the GST Registration of the other-end dealer was cancelled with retrospective effect.

Observations & Findings

In October 2018, M/s Shradha Overseas Private Limited engaged in a business transaction involving the transportation of goods with M/s Suraj Enterprises. Subsequently, tax authorities from Uttaganda conducted two separate inquiries at the premises of M/s Suraj Enterprises in November 2019 and February 2020 to find that M/s Suraj Enterprises did not exist as a registered dealer. As a result, the Revenue Department harbored doubts regarding the authenticity of the transaction between the Appellant and M/s Suraj Enterprises disallowing the ITC.

The Appellant pointed out that the Show Cause Notice (SCN) issued to M/s Suraj Enterprises did not contain any allegations against them. While the Respondent raised several grounds, none of them were considered against the Appellant. The Appellant argued that in order to establish that the other party involved was a non-existing dealer, there should be evidence demonstrating the absence of a valid registration at the time of the transaction. Furthermore, if the cancellation of the registration of the other party was carried out retrospectively, it raised concerns about how it would impact the transaction, particularly since the Appellant could provide evidence of payments made through banking challans.

Consequently, the Appellant filed a petition challenging an order passed by the learned Single Bench, which had declined to grant interim relief as requested. The main issue at hand was whether the retrospective cancellation of the other party's registration would affect the transaction with the Appellant.

The Hon'ble Calcutta High Court, expressed its opinion that the order passed by the Respondent was a non-speaking order. This means that the Respondent did not provide independent findings regarding the allegations against the Appellant. The court took note of the fact that the registration of the other party involved had been cancelled retrospectively. In light of these observations, the court remanded the matter back to the Respondent, instructing them to re-evaluate the case after providing the Appellant with an opportunity for a personal hearing.