

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 17599 of 2022

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GIGAMADE MACHINERIES PRIVATE LIMITED

Versus

STATE OF GUJARAT

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Appearance:

MR MAULIK NANAVATI, ADVOCATE for NANAVATI & CO.(7105) for the
Petitioner(s) No. 1

MR TRUPESH KATHIRIYA, AGP for the Respondent(s) No. 1,2,3 - State

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CORAM: **HONOURABLE MS. JUSTICE SONIA GOKANI**

and

HONOURABLE MR. JUSTICE SANDEEP N. BHATT

Date : 10/02/2023

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE SANDEEP N. BHATT)

1. The petitioner is before this Court seeking to challenge the illegal action of respondent State Tax Officer cancelling of registration of the petitioner under the Gujarat Goods and Services Tax Act, 2017 ('the GGST Act, 2017' for short).

2. The facts of the present case are epitomized as under :

2.1 The petitioner is a registered firm under the Gujarat Goods and Services Tax Act, 2017, having goods and

service tax identification No.24AAICG3973D1ZO.

2.2 The State Tax Officer, Ghatak 15, Ahmedabad issued a show-cause notice dated 09.05.2022 Form GST REG-17/31. As averred, the notice was purportedly issued in exercise of powers under Section 29 of the CGST Act, 2017 read with Rule 22(1) of the Central Goods and Services Tax Rules, 2017.

The show-cause notice simply stated the following as the reason for issuance of the notice - *“1. Taxpayer found non-functioning / not existing at the principal place of business”*.

Pertinently, the notice was not accompanied by any document substantiating the allegation made against the petitioner in the show-cause notice. Also, the body of notice did not elaborate on the reason for the issuance of the show-cause notice and did not specify any particulars. The notice therefore in fact did not disclose the basis for *suo moto* initiating process for cancellation of registration.

2.3 In reply to the said show-cause notice, the petitioner has specifically stated that the notice does not give any reasons for initiating process of cancellation of GST

registration of the petitioner and has been issued by a person who is not authorized in law to initiate process for cancellation of registration.

2.4 The State Tax Officer, Ghatak 15, Ahmedabad passed an order on 04.06.2022, cancelling the registration of the petitioner firm.

2.5 The petitioner submits that again, the order of cancellation did not record any reasons for cancellation of GST registration and only mentioned that the order of cancellation has been passed - *"1. As per attached sheet"*.

3. We have heard Mr. Maulik Nanavati, learned counsel appearing for Nanavati & Co. for the petitioner and Mr. Trupesh Kathiriya, learned Assistant Government Pleader appearing on advance copy for the respondent – State Authority. Rule. Learned AGP waives service of notice of rule on behalf of the respondent – State.

4. Recently, this Court had an occasion to deal with the issue of the procedural lapse on behalf of the State Authorities while dealing with the matters related to cancellation of registration under the GGST Act, 2017. The present matters are squarely covered by the decision of this

Court in the case of Aggrawal Dyeing and Printing Works decided on 24.02.2022 in Special Civil Application no. 18860 of 2021 and allied matters.

5. On bare perusal of the contents of the show cause notice as well as the impugned order, we find that the said show cause notice is absolutely vague, bereft of any material particulars and the impugned order is also vague and a non-speaking order. It cannot be disputed that with cancellation of registration, the dealer is liable to both civil and penal consequences. To say the least, The Authority ought to have at least referred to the contents of the show cause and the response thereto, which was not done. The authority ought to have followed the principles of natural justice, which has not been done in the present case. Not only the order is non-speaking but cryptic in nature and the reason of cancellation not decipherable therefrom. In such circumstances, the principles of natural justice stand violated and the order needs to be quashed as it entails penal and pecuniary consequences. We, therefore, quash and set aside the show cause notice dated 09.05.2022 as well as the consequential order dated 04.06.2022. It would be open for the competent Authority to issue fresh notice for cancellation of registration, in accordance with law.

6. In view of the fact that we have quashed the show-cause notice dated 09.05.2022 and the order of cancellation of GST registration dated 04.06.2022, the respective GST registration stands revived, forthwith.

7. In light of above, the petition stands allowed. Rule is made absolute in above terms.

M.H. DAVE

(SONIA GOKANI,J)

(SANDEEP N. BHATT,J)

