

## IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 25205 of 2022

FOR APPROVAL AND SIGNATURE:

HONOURABLE MS. JUSTICE SONIA GOKANI

sd/-

and

HONOURABLE MRS. JUSTICE MAUNA M. BHATT

sd/-

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	No
2	To be referred to the Reporter or not ?	No
3	Whether their Lordships wish to see the fair copy of the judgment ?	No
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	No

LAKKAD BROTHERS AND CO.

Versus

STATE OF GUJARAT

Appearance:

MS DIMPAL DAMLE FOR NANAVATI & CO.(7105) for the Petitioner(s) No. 1  
for the Respondent(s) No. 2,3MR TRUPESH KATHIRIYA, LD.ASSTT. GOVERNMENT PLEADER for the  
Respondent(s) No. 1CORAM: **HONOURABLE MS. JUSTICE SONIA GOKANI**

And

**HONOURABLE MRS. JUSTICE MAUNA M. BHATT**

Date : 09/12/2022

ORAL JUDGMENT

(PER : HONOURABLE MRS. JUSTICE MAUNA M. BHATT)

1. Rule. Mr. Trupesh Kathiriya, learned AGP waives service of notice of rule on behalf of all respondents.

2. This petition under Article 226 of the Constitution of India, is filed challenging the show-cause notice dated 02.11.2021, proposing to cancel the registration as also, the order dated 07.10.2022, cancelling the registration of the petitioner.

3. Controversy involved in the present petition lies in a very narrow compass. Considering the controversy involved and with the consent of the learned advocates for the respective parties, the present petition is taken up for final hearing today.

4. The petitioner is registered under the provisions of Gujarat Goods and Services Tax Act, 2017 (GST Act), having Service Tax Identification Number 24AOKPL8998N1ZT. It is case of the petitioner that it fulfills all the requirement under the provisions of GST Act. The petitioner was served with a show-cause Notice dated 02.11.2021, in Form GST REG-17/31, proposing to cancel the registration. The said show- cause notice reads as under:

*“Whereas on the basis of information which has come to my notice, it appears that your registration is liable to be cancelled for the following reasons:*

*“1 In case, Registration has been obtained by means of fraud, wilful misstatement or suppression of facts.”*

*You are hereby directed to furnish a reply to the notice within seven working days from the date of service of this notice.*

*If you fail to furnish a reply within the stipulated date of fail to appear for personal hearing on the appointed date and time, the case will be decided ex parte on the basis of available records and on merits.*

*Please note that your registration stands suspended with effect from 02/11/2021.”*

5. It is case of the petitioner that barring this two-line reason,

no other information was provided to the petitioner. Further, the said notice was uploaded on portal and nothing further has been received by the petitioner. As no time or date was mentioned for personal hearing, the petitioner could not appear or could file any meaningful reply. However, a short reply was filed stating that the petitioner had obtained Registration by providing all valid documents that too after following due procedure under the Act and Rules. However,, an order dated 07.10.2022, was passed cancelling the registration of the petitioner. In the order of cancellation of registration, it is recorded that the reply of the petitioner dated 04.05.2022, has been considered. In the order dated 07 10.2022, reason given for cancellation of registration, reads as under:

*“VALIDITY OF THE TRANSACTIONS CARRIED OUT  
WAS NOT SUBSTANTIATED BY MEANS OF REPLY  
FILED”*

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Aggrieved by the action of respondent No.2 cancelling the registration, present petition is filed.

6. Heard Ms.Dimpal Damle, learned advocate for the petitioner and learned AGP Mr.Trupesh Kathiriya for the respondents.

7. Learned advocate for the petitioner submitted that the show cause notice dated 02.11.2021 is vague, cryptic and does not specify the reason for which the registration of the petitioner is proposed to be cancelled and therefore, there is clear violation of Principles on Natural Justice. She further submitted that it is impossible for the petitioner to respond to such cryptic notice. Moreover, the show cause notice does not contain any supporting document to substantiate the reason for cancellation. Vague allegations are made against the petitioner and thereafter an order dated 7.10.2022 was passed cancelling the registration. She also contended that the proceedings in this case have been initiated by the authority who is not competent to do so. Thus, both these orders dated 02.11.2021 and 07.10.2022, are bad in law and deserves to be quashed and set aside.

Relying upon the decision of Coordinate Bench in case of **Aggarwal Dyeing and Printing Works vs. State of Gujarat [2022] 137 Taxmann.com 332 (Gujarat)**, she submitted that in similar set of facts, this court has quashed the show-cause notice and the order cancelling registration. She further submitted that, non-communication of reasons neither in the show cause notice nor in the order cancelling registration violates principle of natural justice and therefore also deserves to be quashed and set aside.

8. On the other hand, Mr. Trupesh C. Kathiriya, learned AGP submitted that the show-cause notice and the order cancelling registration are in consonance with the provisions of the Act and therefore does not call for any interference at this stage. However, he could not controvert the fact that both, the show cause notice and the order cancelling registration are without reasons.

9. Heard the Ld. Advocates for the respective parties. From the tenure of the show cause notice dated 02.11. 2021, it is noticed that specific reasons are not stated as to why the registration of the petitioner is proposed to be cancelled. Supporting document are also not attached to justify the reason. Moreover, in the show-cause dated 02.11.2021, though opportunity granted, no time or date was specified, which in our opinion reflects non-application of mind by the respondent authority. As held in the decision of **Agarwal Dying (supra)**, reasons are heart and soul of any order and non-communication of the same amounts to denial of reasonable opportunity of hearing, resulting in miscarriage of justice, and resultantly violates principles of natural justice.



10. In view of aforesaid facts and the reasons, in our opinion, the show cause notice dated 02.11.2021 and the order of cancellation of registration dated 07.10.2022, being without reasons are cryptic and deserves to be quashed and set aside and hereby quashed and set aside. However, liberty is granted to respondent No.2 to issue fresh notice with particulars of reasons incorporated with details and thereafter to provide reasonable opportunity of hearing to the petitioner and to pass appropriate speaking order on merits, in accordance with law. The concerned respondent is hereby directed to restore the registration of the petitioner forthwith.

11. It is needless to mention that it shall be open for the petitioner to respond to such notice by filing objection/reply with necessary documents, if relied upon. We clarify that we have not entered into the merits of the matter. No order as to costs.

sd/-

**(SONIA GOKANI, J)**

sd/-

**(MAUNA M. BHATT,J)**

DIPTI PATEL