

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 903 of 2023**

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SARVODAY IMPEX  
Versus  
UNION OF INDIA

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Appearance:

NANAVATI & CO.(7105) for the Petitioner(s) No. 1  
MR CB GUPTA(1685) for the Respondent(s) No. 2,3  
NOTICE UNSERVED for the Respondent(s) No. 1

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CORAM: **HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI**  
and  
**HONOURABLE MR. JUSTICE DEVAN M. DESAI**

Date : 07/06/2023

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)

[1] This petition is filed under Article 226 of the Constitution of India in which the petitioner has prayed for the following reliefs:

*“6(a) To issue a writ in the nature of certiorari and or any other appropriate writs, order or direction quashing and setting aside show-cause notice dated 06.01.2023 issued by respondent no.2 and all proceedings that may have been initiated pursuant thereto; marked as Annexure ‘P2’*

*(b) To pass an ex-parte ad interim order*

*staying the operation and implementation of show-cause notice dated 06.01.2023 issued by respondent no.2 and all proceedings that may have been initiated pursuant thereto; pending the hearing and final disposal of present petition; and marked as Annexure 'P2'*

*(c) Grant such further and other interim relief, as this Hon'ble Court may deem fit and proper in the present nature and circumstances of the case."*

[2] Heard Mr.Maulik Nanavati learned advocate for Nanavati & Co. for the petitioner and Mr.C.B.Gupta, learned advocate for the respondents.

[3] Learned advocate Mr.Maulik Nanavati submitted that the petitioner is registered under Central Goods and Service Tax Act, 2017 (hereinafter referred to as 'the Act'). It is submitted that on 06.01.2023 a show-cause notice in Form of GST REG-17/31 came to be issued by the respondent authorities while exercising power under Section 29 of the Act read with Rule 22(1) of the Central Goods and Services Tax Rules, 2017. It is also submitted that the show-cause notice simply states

the reason for issuance of notice (as in case, Registration has been obtained by means of fraud, wilful misstatement or suppression of facts).

[4] Learned advocate Mr.Nanavati further submitted that the said show-cause notice is as vague as possible and does not refer to any particular facts much less point out so as to enable the noticee to give its reply. Therefore, he urges before this Court to quash and set aside the impugned show-cause notice issued by the respondents which is placed on record at page 18 of the compilation.

[5] Learned advocate Mr.Nanavati has relied on the various decisions of the Hon'ble Supreme Court as well as other High Courts. He has placed reliance on the decision of this Court rendered in the case of **Aggrawal Dyeing and Printing Works Vs. State of Gujarat & Ors** passed in Special Civil Application No.18860 of 2021 decided on 24.02.2022 and allied matters.

[6] Learned advocate Mr.Nanavati has also placed on record the order passed by this Court in **Special Civil**

Application No.11262 of 2020, Special Civil Application No.25205 of 2022, Special Civil Application No.7328 of 2022 and Special Civil Application No.5480 of 2022. It is submitted that in similar type of cases, this Court has quashed and set aside the similar show-cause notice issued by the respondent authorities. Therefore, he urges before this Court to allow the present petition and quash and set aside the impugned show-cause notice.

[7] On the other hand, Mr.C.B.Gupta, learned advocate for the respondents has referred the averments made in the Affidavit-in-reply filed on behalf of the respondents. Mr.Gupta, learned advocate has tried to argue the case of the respondents on merits. However, it is pertinent to note that in the show-cause notice issued to the petitioner, detail with regard to the alleged fraud and illegality committed by the petitioner has not been stated. It is stated in the reply that the impugned show-cause notice for cancellation of registration of the petitioner has been issued through common portal and there is no facility or mechanism to upload other documents while issuing system based show-cause notice through common portal. Therefore, he contended that

because of the said technical glitch, the details are not provided to the petitioner in the show-cause notice.

[8] We have considered the submissions canvassed by the learned advocates for the parties.

[9] The respondent authorities issued impugned show-cause notice dated 06.01.2023 which reads as under:

“Form GST REG-17

[See Rule 22(1)/sub-rule (2A) of rule 21A]

Reference Number:ZA2401230353816

Date :06/01/2023

To

*Registration Number (GSTIN/Unique ID):24HSVPS8030J1ZX*

*BALVINDER SINGH*

*JAY BAJRANG CO OP HOS SOC,*

*SHOP NO2, NR SHASHTRI STADIUM,*

*STADIUM ROAD, Ahmedabad,*

*Ahmedabad, Gujarat,380015*

***Show Cause Notice for Cancellation of Registration***

*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, willful 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.*

*You are hereby directed to appear before the undersigned on 13/01/2023 at 01:00 PM.*

*If you fail to furnish a reply within the stipulated date or 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 06/01/2023*

*Place : Gujarat*

*Date : 06/01/2023*

*Signature Not Verified*

*Digitally signed by*

*DS GOODS AND SERVICES*

*TAX NETWORK 07*

*Date: 2023.01.06, 15:31:49 IST*

[10] From the aforesaid show-cause notice, it is clear that the respondents have not provided in details to the petitioner, how the petitioner has committed fraud, wilful misstatement or suppression of facts; while obtaining the registration, no documents were supplied to the petitioner alongwith the said show-cause notice.

[11] This Court has considered in the similar type of case of **Aggrawal Dyeing (supra)** and observed in para 13.1 and 16 as under:-

*“13.1 To say the least, the respondent authority i.e. the Assistant/Deputy Commissioner, State tax Officer ought to have atleast incorporated specific details to the contents of the show cause. Any prudent person would fail to respond to such show cause notice bereft of details thereby making the mechanism of issuing show cause notice a mere formality and an eye wash.*

*16. When we inquired with the learned AGP appearing for the respondents as to why such vague show cause notices and vague final orders, bereft of any material particulars therein are being passed, the reply on behalf of the respondents was quite baffling. The learned AGP submitted that on account of technical glitches in the portal, the department is finding it very difficult to upload the show cause notice as well as the final order of cancellation of registration containing all the necessary details and information therein. According to the learned*

*AGP, it is in such circumstances that the show cause notices and impugned orders without any details are being forwarded to the dealers. This hardly can be a valid explanation for the purpose of issuing such vague show cause notices and vague final orders cancelling the registration.”*

[12] In Special Civil Application No.11262 of 2020, the Division Bench of this Court has considered the similar type of show-cause notice and observed in paras 2, 3, 4, 5 & 6 as under:-

*“2. Mr. Meena is the signatory of the show cause notice as also the impugned order of cancellation both of which are assailed in the writ petition. We have directed for the appearance of Mr. Meena upon perusal of the show cause notice dated 20.07.2020 (Annexure-H to the petition). Perusal of the same indicates that to such show cause notice no response can be given by any assessee. The show cause notice is as vague as possible and does not refer to any particular facts much less point out so as to enable the noticee to give his reply. The contents of the show cause notice dated 20.07.2020 are reproduced below:*



## “Form GST REG-17

[See Rule 22(1)]

Reference Number:ZA2407200794641

Date :20/07/2020

To

INDRESH KUMAR

3, SOMNATH SHOPPING CENTER,

SMRUTI MANDIR CANAL ROAD

GHODASAR, AHMEDABAD,

Ahmedabad, Gujarat,380050

***Show Cause Notice for Cancellation of Registration***

*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, willful 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 or 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.*

*Place : Gujarat*

*Date : 20/07/2020*

*Prem Raj Meena*

*Superintendent*

*Ghatak 18(Ahmedabad):*

*Range-5:Division-2:Gujarat”*

*3 According to learned counsel for the petitioner Mr. Dave, without fixing a date for hearing and without waiting for any reply to be filed by the petitioner, the cancellation order was passed on 30.07.2020 whereby registration of the petitioners with GST department was cancelled. Although the cancellation order refers to a reply submitted by the petitioner and also about personal hearing, but according to Mr. Dave neither he had submitted any reply nor afforded any opportunity of hearing. This fact is not disputed by Mr.Bhatt.*

*4 Mr.Bhatt, learned counsel for the respondent No.2 has sought to explain that some discrepancy occurred on account of some technical glitch in the system (on-line portal). The reply filed by the respondent is on record.*

*5 We are not entering into the merits of the impugned order as we are convinced that the show cause notice itself cannot be sustained for the reasons already recorded above. Therefore, the cancellation of registration resulting from the said show-cause notice also cannot be sustained.*

*6 For the reasons recorded above, the writ petition succeeds and is allowed. The impugned show cause notice dated 20.07.2020 (Annexure-H) and the impugned cancellation order dated 30.07.2020 (Annexure-I) are hereby quashed. With respect to the other consequence that may follow, the parties would be at liberty to take appropriate steps. Mr. Bhatt made request that the Court may grant liberty to proceed afresh. We are not inclined to pass such order, but we only observe that if law permits, the respondent No.2 may proceed afresh in accordance with law.”*

[13] From the aforesaid order, it reveals that, in the said case as similar type of contentions were raised on behalf of the respondent. However, this Court has quashed and set aside the similar type of show-cause notice issued to the concerned petitioner for cancellation of registration. We are of the view that the present matter is squarely covered by the aforesaid order passed by this Court, therefore, the impugned show-cause notice deserves to be quashed and set aside on the similar grounds.

[14] In view of the aforesaid facts and reasons, the present petition is **allowed**. The impugned show-cause notice dated 06.01.2023, being without reasons, is cryptic and deserves to be quashed and set aside, and is hereby quashed and set aside. However, liberty is granted to the respondent authorities 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 order in accordance with law. The concerned respondent is hereby directed to restore the registration of the petitioner forthwith.

[15] 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.

[16] It is clarified that this Court has not examined the merits of the case of the parties.

(VIPUL M. PANCHOLI, J)

(D. M. DESAI, J)

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