

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 10359 of 2024**

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M/S. GAYATRI STEEL COMPANY
Versus
THE UNION OF INDIA & ORS.

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Appearance:

MR PARTH RACHCHH ADVOCATE WITH MR PARESH M DAVE(260) for the Petitioner(s) No. 1

MR AMAL PARESH DAVE(8961) for the Petitioner(s) No. 1

MS HETVI H SANCHETI(5618) for the Respondent(s) No. 1,2,3,4

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CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA
and
HONOURABLE MR. JUSTICE NIRAL R. MEHTA

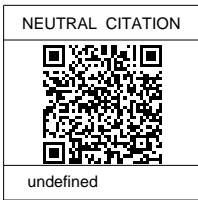
Date : 20/09/2024
ORAL ORDER

(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)

[1] Heard learned advocate Mr. Paresh Dave for the petitioner and learned advocate Ms. Hetvi Sancheti for the respondents.

[2] By this petition, the petitioner has challenged the order passed by the Appellate Authority, whereby the order of cancellation of registration passed by the Assessing Officer has been upheld and the appeal was dismissed on the ground of limitation.

[3] The petitioner challenged the order of cancellation of registration on the ground of not providing an opportunity of



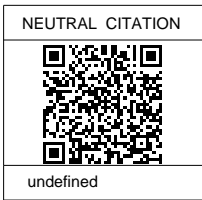
hearing as well as such order was passed without assigning any reason for cancellation of the registration of the petitioner.

[4] The Coordinate Bench of this Court in case of M/s. **Aggrawal Dyeing & Printing vs. State of Gujarat** reported in (2022) **137 Taxmann.com 332 (Guj.)** has issued the guidelines to the respondent-authorities as under:

“18. Our final conclusion are as under:

18.1. Until the Department is able to develop and upload an appropriate software in the portal which would enable the Department to feed all the necessary information and material particulars in the show cause notice as well as in the final order of cancellation of registration that may be passed, the authority concerned shall issue an appropriate show cause notice containing all the necessary details and information in a physical form and forward the same to the dealer by RPAD. In the same manner, when it comes to passing the final order, the same shall also be passed in a physical form containing all the necessary information and particulars and shall be forwarded to the dealer by RPAD.

18.2 Over a period of time, we have noticed in many matters that the impugned order cancelling the registration of a dealer travels beyond the scope of the show cause notice. Many times, the dealer is taken by surprise when he gets to read in the order that the authority has relied upon some inspection report or spot visit report etc. If the authority wants to rely upon any particular piece of evidence then it owes a duty to first bring it to the notice of the dealer so that if the dealer has anything to say in that regard, he may do so. Even if the authority wants to rely on any documentary

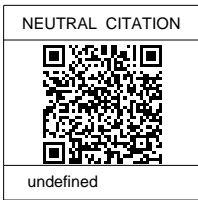


evidence, the dealer should be first put to the notice of such documentary evidence and only thereafter, it may be looked into.

18.3 The aforesaid may appear to be very trivial issues but, it assumes importance in reducing the unnecessary litigation. Our concern is that on account of procedural lapses, the High Court should not be flooded with writ applications. The procedural aspects should be looked into by the authority concerned very scrupulously and diligently. Why unnecessarily give any dealer a chance to make a complaint before this Court when it could have been easily avoided by the department.

19. In the result, all the writ applications deserve to be allowed solely on the ground of violation of principles of natural justice and, accordingly, the writ applications are allowed. We quash and set aside the respective show cause notices of all the writ applications, seeking cancellation of registration as well as the consequential respective impugned orders cancelling registration with liberty to the respondent No. 2 to issue fresh notice with particulars of reasons incorporated with details and thereafter to provide reasonable opportunity of hearing to the writ applicants, and to pass appropriate speaking orders on merits. It is needless to mention that it shall be open for the writ applicants to respond to such notices by filing objections / reply with necessary documents, if relied upon. We clarify that we have not gone into merits of the case.”

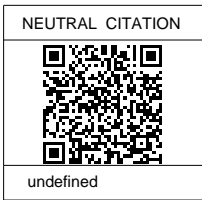
[5] The aforesaid judgement was rendered in the year 2022. However, in spite of the above direction issued by this Court, the respondent-authorities without following such directions are issuing cryptic notice and order for cancellation of registration number of the petitioner.



[6] In the present matter, order of cancellation of registration is passed without giving any reason by the respondent authorities, and appeals filed by the petitioners under Section 107 of the GST Act are also dismissed.

[7] As the Appellate Authority has dismissed the appeals of the petitioner, the respondent authorities will not be able to exercise the revisional power under section 108 of the GST Act. Therefore, the impugned order passed by the Appellate Authority as well as the order of cancellation of registration are required to be quashed and set aside. Accordingly, the matter is remanded back to the Assessing Officer at the show cause notice stage. However, the registration of the petitioner shall remain suspended till the show-cause notice is decided by the Assessing Officer as per the following directions:

- (i) The Assessing Officer shall provide detail reason for cancellation of registration of the petitioners, if not supplied earlier within a period of two weeks from the date of receipt of copy of this order.

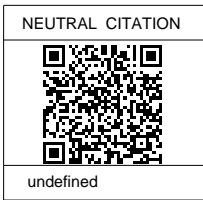


(ii) Even if the reasons are supplied earlier and if the petitioner requests for the same, the respondent-authorities shall again provide a copy of the reasons for cancellation of the registration upon such request.

(iii) The petitioner shall file written reply upon receipt of the detail reasons for issuance of the show-cause notice for cancellation of registration within a period of two weeks from the date of receipt of the reasons.

(iv) After receipt of the reply from the petitioner, the respondent authorities shall pass appropriate order in accordance with law after providing opportunity of personal hearing to the petitioner and after considering the reply of the petitioners within a period of four weeks from the date of personal hearing.

(v) The aforesaid timeline shall be followed by both the sides. The petitioner shall also cooperate with the respondent-authorities in compliance of the aforesaid timeline for disposal of the show-cause notice by the respondent



authorities.

[8] In view of the above, this petition is partly allowed by quashing and setting aside the impugned order passed by the Appellate Authority as well as order of cancellation of registration and the matter is remanded to the Assessing Officer at show-cause notice stage, however, the registration number of the petitioner shall remain suspended till such show cause notice is disposed of as per the directions given above.

[9] It is clarified that this Court has not gone into the merits of the matter. The respondent-authorities shall pass appropriate order in accordance with law after providing detail reasons and opportunity of hearing to the petitioner.

[10] This petition is accordingly disposed of. Notice is discharged. No order as to cost.

(BHARGAV D. KARIA, J)

(NIRAL R. MEHTA, J)

CHANDRESH