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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO. 272 OF 2020

Great Sands Consulting Private Limited ..Petitioner

vs.

Union of India & ors. ..Respondents

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Mr. Vikram Nankani, Senior Advocate a/w. Mr. Kishore Kunal
a/w. Mr. Nikhil Mendge for petitioner.

Mr. G. Hariharan with Mr. A.A. Ansari for respondent No.1.

Mr. Dushyant Kumar, AGP for respondent Nos. 2 to 4.

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**CORAM : NITIN JAMDAR &
M.S.KARNIK, JJ.**

DATE : 14 FEBRUARY 2020

P.C.:-

Heard the learned counsel for the parties.

2. By this Petition, the Petitioner has challenged the order dated 1 January 2020 cancelling the registration of the Petitioner under the Central Goods and Services Tax Act, 2017.

3. The Petitioner was issued a show cause notice on 28 December 2019 as to why the Petitioner's registration should be not cancelled. The reason in the show cause was thus :

“1) You have filed GSTR 3B returns up to Oct 2019 in which you have shown tax liability as well as have claimed Input Tax Credit. This implies that your business status is active. However, from scrutiny of place of business and visit report of State Tax Officer it is evident that you are not conducting business at the Place of Business mentioned in your registration profile. Hence, explanation is required why your registration should not be cancelled ab initio i.e. from the date of registration.”

The Petitioner by intimation of the same date was directed to appear before the State Tax Officer on 31 December 2019 and submit a reply. Thereafter, the impugned order was passed on 1 January 2020 wherein it is stated that in response to the show cause notice no reply was given by the Petitioner.

4. Mr. Nankani, learned Senior Advocate for the Petitioner submitted that apart from other grounds raised in the Petition, it is apparent from the impugned order itself that it is primarily based on the ground that the Petitioner has not given any reply to the show cause notice. Mr. Nankani has drawn our attention to the averment made in the Petition that the Petitioner had submitted the reply dated 24 December 2019, on 30 December 2019, prior to the passing of the order. Copy of the letter dated 24 December 2019 is shown to us which bears a stamp being endorsed on 30 December 2019. In view of this submission, we had passed the

following order on 27 January 2020 :

“Heard learned Senior Advocate appearing for the Petitioner.

2. *The learned Senior Advocate submitted that in response to the show-cause notice a comprehensive reply was filed dated 24 December 2019 which has been submitted to the authority on 30 December 2019 prior to the date 31 December 2019 stipulated in the show-cause notice. However, when the impugned order was passed it states that no reply was filed. Learned Senior Advocate for the Petitioner has shown us an endorsement of the concerned office on the reply dated 30 December 2019.*

3. *None appears for Respondents. We are informed that Respondent was intimated of today’s date of the Petition.*

4. *Issue notice to the Respondents returnable on 10 February 2020. Humdast is permitted.*

5. *Parties are put to notice that in view of the short controversy raised as above, the Petition will be disposed of finally on the next date.”*

Thereafter, at the request of Mr. Kumar, the learned AGP appearing for the Respondent Nos. 2 to 4, we had adjourned the matter till today.

5. Mr. Kumar, the learned AGP has shown the communication dated 24 December 2019 to the officer present, who confirms that the reply has been endorsed on 30 December 2019. It is quite

obvious that the impugned order has been passed without considering the reply and on the ground that no reply is filed, the impugned order will have to be set aside and the proceedings will have to be restored to the stage of show cause notice.

6. In these circumstances, the impugned order dated 1 January 2020 cancelling the registration of the Petitioner is set aside and the proceedings are restored to the stage of issuance of show cause notice. The Petitioner will appear before the State Tax Officer as on the date specified by the State Tax Officer.

7. We make it clear that we have set aside the impugned order on the above ground alone and the proceedings will be concluded by the officer on its own merits. Upon a request made by Mr. Nankani we only state that if the Petitioner is entitled to in law to take steps to file returns, it is always open to the Petitioner to do so.

8. The Writ Petition is, accordingly, disposed of.

(M.S.KARNIK, J.)

(NITIN JAMDAR, J.)