

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 6721 of 2022

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MANMISH TRADERS PRIVATE LIMITED

Versus

STATE OF GUJARAT

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Appearance:

MR PRAKASH SHAH, SENIOR ADVOCATE WITH MS. DIMPLE K.

GOHIL(7451) for the Petitioner(s) No. 1

for the Respondent(s) No. 2,3

MR UTKARSH SHARMA, AGP ADVANCE COPY SERVED TO

GOVERNMENT PLEADER/PP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE J.B.PARDIWALA

and

HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 13/04/2022

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)

1. Rule returnable forthwith. Mr. Utkarsh Sharma, the learned AGP waives service of notice of rule for and on behalf of the respondents.

2. By this writ-application under Article 226 of the Constitution of India, the writ-applicant has prayed for the following reliefs:-

12(a) Be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the petitioner's case and after going into the validity and legality thereof be pleased to quash and set aside the show cause notice dated 07.12.2021 and the impugned order dated 17.12.2021 passed by the respondent no.3 cancelling the registration of the petitioner with retrospective effect from 29.11.2017;

(b) Be pleased to issue a writ of mandamus or any other appropriate writ in the nature of mandamus ordering and directing the respondents to forthwith refrain from taking any further steps or proceeding pursuant to or in implementation of the impugned order dated 17.12.2021 passed by respondent no.3;

(c) That pending the hearing and final disposal of the above petition, be pleased to stay the effect and operation of impugned order dated 17.12.2021;

(d) An ex-parte ad-interim relief in terms of prayer (c) above may kindly be granted;

(e) Such other and further order or orders as may be deemed just and proper in the facts and circumstances of the present case may kindly be granted.

3. The subject matter of challenge is the legality and validity of the show-cause notice issued by the *Commercial Tax Officer, Ghatak 25 (Kalol), Range-7, Division-3, Gujarat*, dated 07.12.2021 in the Form GST REG-17/31. The same reads as under:-

FORM GST REG-17/31

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

Reference Number: ZA241221027989F

Date:07/12/2021

To

Registration Number (GSTIN/Unique ID): 24AAGCM6660D2ZL

MANMISH TRADERS PRIVATE LIMITED

A-107, Navjivan Shopping, Mahindra Mall Road,

Centre Kalol, Kalol,

Gandhinagar 382721.

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 15/12/2021 at 11:00.

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 07/12/2021.

Place: Gujarat

Date: 07/12/2021

Jagatsinh Vaghubha Zala
Commercial Tax Officer,
Ghatak 25 (Kalol), Range-7, Division-3, Gujarat,

4. We have heard Mr. Prakash Shah, the learned senior counsel assisted by Ms. Dimple Gohil, the learned counsel appearing for the writ-applicant and Mr. Utkarsh Sharma, the learned AGP appearing for the State-respondents.

5. It appears that the final order cancelling the registration also came to be passed by the Officer concerned dated 17.12.2021 in the Form GST REG-19. The show-cause notice as well as the final order passed by the Officer concerned are hereby quashed and set aside in view of the recent pronouncement of this Court in the case of ***Sing Traders vs. State Of Gujarat; Special Civil Application No.6315 of 2022; decided on 06.04.2021.***

6. The G.S.T. registration stands restored. If the Department wants to proceed against the writ-applicant in future on any grounds, it may do so in accordance with law after giving due opportunity of hearing to the writ-applicant.

7. With the aforesaid, this writ-application stands disposed of.
Rule is made absolute to the aforesaid extent.

(J. B. PARDIWALA, J)

(NISHA M. THAKORE, J)

A. B. VAGHELA

