

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 5480 of 2022****With****R/SPECIAL CIVIL APPLICATION NO. 5482 of 2022****With****R/SPECIAL CIVIL APPLICATION NO. 5485 of 2022****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE J.B.PARDIWALA****and****HONOURABLE MS. JUSTICE NISHA M. THAKORE**

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	
2	To be referred to the Reporter or not ?	
3	Whether their Lordships wish to see the fair copy of the judgment ?	
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	

VINAYAK METAL THROUGH ITS PROPRIETOR ANKIT RATILAL**GUNJARIYA****Versus****STATE OF GUJARAT****Appearance:**

MS MANVI DEMLE FOR NANAVATI & CO.(7105) for the Petitioner(s) No. 1

for the Respondent(s) No. 2,3

MR UTKARSH SHARMA AGP for the Respondent(s) No. 1

CORAM: HONOURABLE MR. JUSTICE J.B.PARDIWALA**and****HONOURABLE MS. JUSTICE NISHA M. THAKORE****Date : 17/03/2022****ORAL JUDGMENT****(PER : HONOURABLE MS. JUSTICE NISHA M. THAKORE)**

1. Since the issues raised in all the captioned writ applications are the same, those were taken up for hearing analogously and are being disposed of by this common judgment and order. All the

writ applicants have approach this Court being aggrieved by the illegal action of respondent State Tax Officer seeking cancellation of registration under the Gujarat Goods and Service Tax Act, 2017 (In short, “the GGST Act, 2017”).

2. For the sake of convenience, the Special Civil Application No.5480 of 2021 is treated as the lead matter.

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

“(a) To issue a writ in the nature of certiorari and or any iother appropriate writs, order or direction for calling of records of proceedings initiated pursuant to show cause notice dated 01.11.2021 and after perusing the same be pleased to quashed and set aside show cause notice dated 01.11.2021 and order dated 18.01.2022 passed thereon by Assistant Commissioner , Ghatak-23, Ahmedabad, and be further pleased to direct restoration of registration bearing number 24BJVPG7723B2Z7;

(b) To pass an ex-parte ad interim order staying the operation, execution and implementation of the order dated 18.01.2022 bearing reference no. ZA240122075952F.

(c) Grant such further and other interim releifs , as this Hon'ble Court may deem fir and proper in the present nature and circumstances of the case.”

4. The facts, which emerges from the record, are summarized as under:

4.1 The writ applicant is registered under the GGST Act, 2017 having its Unique identification No.24BJVPPG7723B2Z7. The writ applicant firm was served with a show cause notice dated 01.11.2021 issued by the Assistant Commissioner, Ghatak-23, Ahmedabad, in Form GST REG. 17/31. The said show cause

notice was issued in exercise of power conferred under Section 29 of the GGST Act, 2017 read with Rule 22(1) of the Rules, 2017 framed thereunder.

4.2 The show cause notice simply states the reason for issuance of the notice, which reads as under:

“Issues any invoice or bills without supply of goods and/or services in violation of the provisions of this Act, or the rules thereunder leading to wrongful availment of input tax credit or refund of tax.”

4.3 The writ applicant submitted its reply dated 09.11.2021 within the time period granted in the said notice questioning the authority of the Assistant Commissioner, to initiate proceedings for cancellation of registration.

4.4 It is the case of the writ applicant that though, the show cause notice called upon the writ applicant “to appear for personal hearing on the appointed date and time” failing which, the case was to be decided *ex-parte* on the basis of available record on merits, the said show cause notice was bereft of any material particulars and the same does even stipulated any next date of hearing for personal hearing.

4.5 It is the case of the writ applicant that in absence of proper intimation by the respondent authority, the writ applicant on his own appeared before the concerned Officer thereby drawing attention about the objections raised by the writ applicant. However, the Assistant Commissioner, Ghatak – 23, Ahmedabad, without considering the objections raised by the writ applicant, passed the order dated 18.01.2022 cancelling the registration of

the writ applicant firm. The sole reason assigned by the Assistant Commissioner in the said order of cancellation reads thus:

“1. No clarification against SCN is submitted. So cancellation order u/s 29 read with rule 21 for cancellation of GSTN wef 10.09.2020 is send by RPAD bearing o/w no. 4828 dated 18.01.2022”

4.5 Being aggrieved by the aforesaid illegal action of the respondent authority cancelling the registration of the writ applicant firm, the writ applicant has approached this Court by way of present writ application.

5. We have heard Ms. Manvi Damle, the learned counsel appearing for the Nanavati & Co. for the writ applicants and Mr. Utkarsh Sharma, the learned Assistant Government Pleader, appearing on advance copy for the respondent authority.

6. Recently, this Court had an occasion to deal with the issue of the procedural lapse on behalf of the State Authorities while dealing with the matters related to cancellation of registration under the GGST Act, 2017. The present matters are squarely covered by the decision of this Court in the case of **Aggrawal Dyeing and Printing Works** decided on 24.02.2022 in Special Civil Application no. 18860 of 2021 and allied matters.

7. On bare perusal of the contents of the show cause notice as well as the impugned order, we find that the said show cause notice is absolutely vague, bereft of any material particulars and the impugned order is also vague and a non-speaking order. It cannot be disputed that with cancellation of registration, the dealer

is liable to both civil and penal consequences. To say the least, the authority ought to have at least referred to the contents of the show cause and the response thereto, which was not done. Not only the order is non-speaking but cryptic in nature and the reason of cancellation not decipherable there from. In such circumstances, the Principles of natural justice stand violated and the order needs to be quashed as it entails penal and pecuniary consequences. We therefore, quash and set aside the show cause notice dated 01.11.2021 as well as the consequential order dated 18.01.2022. We also quash and set aside the show cause notice dated 11.10.2021 and consequential order dated 31.12.2021 cancelling registration in Special Civil Application No. 5482 of 2022 and show cause notice dated 16.11.2021 and consequential order dated 07.12.2021 in Special Civil Application No. 5485 of 2022. We further remit these matters to the respondent No.2 for *denovo* proceedings in accordance with law. In view of the fact that we have quashed the order of cancellation of GST registration, the respective GST registration stands revived.

8. It is expected of respondent Authority to abide by direction issued by this Court in Special Civil Application No.18860 of 2021 and allied matter.

In light of the aforesaid, the matters stands as disposed in above terms.

(J. B. PARDIWALA, J)

(NISHA M. THAKORE, J)

Y.N. VYAS