

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 7115 of 2022**

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VAHANVATI STEELS THROUGH PROP. BAROT CHINTANKUMAR
MAHENDRAKUMAR
Versus
STATE OF GUJARAT

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Appearance:

MR MAULIK NANAVATI, ADVOCATE FOR NANAVATI & CO.(7105) 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 : 11/04/2022

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 nos.1 and 3 respectively.

2. The respondent no.2 – Mr. Sandeep Mahendrabhai Patel, State Tax Officer, Ghatak-1, Ahmedabad, Range-1, Division-1, Gujarat has been impleaded in his personal capacity as the writ-applicant feels that he has acted in a very high-handed manner. If any Officer has been impleaded in his personal capacity, we don't expect the AGP to appear for him and defend his action.

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

“6(a) To issue a writ in the nature of certiorari and or any other appropriate writ, order or direction quashing and setting aside order dated 29.03.2022 made by State Tax Officer, Ghatak 1, Ahmedabad cancelling the Goods and Service Tax Registration of petitioner, and direct restoration or revival of registration of the petitioner firm;

(b) To pass an order holding and declaring respondent no.2 guilty of willful disobedience of the order dated 24.03.2022 passed by this Hon’ble Court in Special Civil Application No.6008 of 2022;

(c) To pass an ex-parte ad interim order staying the operation and implementation of cancellation order dated 29.03.2022 issued by State Tax Officer, Ghatak-1, Ahmedabad and stay all further proceedings pursuant to the order of cancellation of registration dated 29.03.2022 pending the hearing and final disposal of present petition; and

(d) 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.”

4. This is a second round litigation. This litigation could be said to have been created by the respondent no.2 for no good reason. It all started with issue of a very vague show-cause notice dated 29.03.2022 calling upon the writ-applicant to show cause as to why his GST registration should not be cancelled.

5. The show-cause notice being as vague as anything, the writ-applicant came to this High Court by filing the Special Civil Application No.6008 of 2022 challenging the same.

6. The Special Civil Application No.6008 of 2022 referred to

above, came to be disposed of by this Court vide order dated 24.03.2022, which reads thus:-

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

2. We have heard Ms. Manvi Damle, the learned counsel appearing for the writ applicant and Mr. Utkarsh Sharma, the learned AGP appearing for the respondents.

3. The writ applicant is a proprietor of a proprietary concern and he has been served with a show cause notice dated 29.02.2022 calling upon him to show cause as to why the GST registration should not be cancelled. The show cause notice is at page 15, Annexure P/1. The same read thus:

“Form GST REG-17/31

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

Reference Number: ZA2402221987744D

Date: 28/02/2022

To,

Registration Number(GSTIN/Unique ID): 24AALFV2668JIZP

VAHANVATI STEELS

101, RUDRAX WEIGHT BRIDGE COMPOUND,

VATVA, GIDC, VATVA

Ahmedabad, Gujarat, 382445

Show Case Notes 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. VahanVATI Steels, Your VAT/CST No.24071803643, CST NO.Ab-initio cancelled on 25.02.2021.

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 09/03/2022 at 11:30.

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 28/02/2022.

*Place: Gujarat
Date: 28.02.2022*

*Signature valid
Digitally signed by DS GOODS
AND SERVICE TAX NETWORK (4)
Date:2022.02.28.18:45:26 IST*

*SANDEEP MAHENDRABHAI PATEL
State Tax Officer
Ghatak-1 (Ahmedabad), Range-1, Division-1, Gujarat”*

4. The show cause notice is bereft on any material particulars or information. In the absence of any material particulars and the details, it is difficult for any individual to respond to such a vague show cause notice. Probably what the Authority is trying to convey is that earlier VAT/CST registration in case of writ applicant has been cancelled ab initio and therefore, the registration is not valid and not recognized in law. If such are the allegations, it is expected of the Authority to furnish some details in this regard.

5. The impugned show cause notice has to be quashed and set aside and the same is accordingly quashed and set aside. If the Assistant Commissioner, Ghatak – 1 (Ahmedabad), Range – 1, Division – 1, Gujarat, is of the view that the registration of the writ applicant herein is not valid and not recognized as per the provisions of the Act, it shall be open for him to issue a fresh show cause notice in a physical form and such fresh show cause shall contain all necessary information and details for the purpose of effectively responding to the same.

With the aforesaid, this writ application stands disposed of. Rule is made absolute.”

7. In accordance with the order passed by this Court as above, it was expected of the respondent no.2 to issue a fresh show-cause notice containing all the necessary information and material particulars to enable the writ-applicant to meet with the same. However, the respondent no.2 proceeded to pass an order cancelling the registration. The order cancelling the registration on the face of it is as vague as anything.

9. The writ-applicant preferred an application seeking revocation of the order cancelling the registration once-again an absurd and vague order came to be passed by the respondent no.2, dated 05.04.2022, which is at Page-18, Annexure-P/4. We quote the order dated 05.04.2022, which is at Page-18 of the paper-book.

Form GST REG-23
[See Rule 23(3)]

Annexure P/4
18

Reference Number: ZA24042201953V Date: 05/04/2022

To
VAHANVATI STEELS
101, RUDRAX WEIGH BRIDGE COMPOUND, VATVA, VATVA GIDC, Ahmedabad, Gujarat, 382445
GSTIN : 24AALPV2668J1ZP

Application Reference No. (ARN): AA240422010319R Dated: 04/04/2022

Show Cause Notice for rejection of application for revocation of registration

This has reference to your application dated 04/04/2022 regarding revocation of cancellation of registration. Your application has been examined and the same is liable to be rejected for the following reasons:

- Reason for revocation of cancellation - Others (Please specify) - (7)???????????????????? Nil Return File
GSTR-2A AB-initio
- Any Supporting Document - Others (Please specify) - (7)????????????????????
(AB-initio)

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 16/04/2022 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 .

SANDEEP MAHENDRABHAI PATEL
State Tax Officer
Ghatkari 1 (Ahmedabad)

Signature Not Verified
Digitally signed by DS GOODS AND SERVICES TAX NETWORK(4)
Date: 2022.04.05 18:24:30 IST

True copy
✓
Annexure

10. Does the aforesaid order with only questions-marks make any sense? We fail to understand that the respondent no.2 might not have felt even for a second as to what he was doing. We are at pains to observe as to on what basis the respondent no.2 could have even put his signature on such an order. When he signs the order it means he is approving the contents of the order.

11. We have heard Mr. Maulik Nanavati, the learned counsel appearing for the writ-applicant and Mr. Utkarsh Sharma, the learned AGP appearing for the respondents nos.1 and 3 respectively.

12. Mr. Nanavati, the learned counsel appearing for the writ-applicant very emphatically submitted that this a fit case, in which the respondent no.2 should be proceeded for contempt of court. He pressed very hard for issue of notice to the respondent no.2 for contempt. Mr. Nanavati is fully justified in making such a submission. However, we are not issuing any notice for contempt today with a warning to the respondent no.2 that henceforth if this court comes across any such vague order or show-cause notice duly signed by him, then that will be his last day in the office.

13. There is nothing which we can say anything further in this matter. The order dated 29.03.2022 cancelling the registration of the writ-applicant is hereby quashed and set aside. The so-called order dated 05.04.2022, Annexure-P/4, Page-18 is also hereby

quashed and set aside.

14. With the aforesaid, the GST registration of the writ-applicant stands restored forthwith.

15. This writ-application stands disposed off.

(J. B. PARDIWALA, J)

(NISHA M. THAKORE,J)

A. B. VAGHELA