

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 5999 of 2022****PURABDHANI ENTERPRISE****Versus****STATE OF GUJARAT****Appearance:****MR CHETAN K PANDYA(1973) for the Petitioner(s) No. 1****MR UTKARSH R SHARMA(6157) for the Respondent(s) No. 2****MR. KRUTIK PARIKH, AGP for the Respondent(s) No. 1****CORAM: HONOURABLE MR. JUSTICE N.V.ANJARIA****and****HONOURABLE MR. JUSTICE BHARGAV D. KARIA****Date : 07/07/2022****ORAL ORDER****(PER : HONOURABLE MR. JUSTICE N.V.ANJARIA)**

In the facts and circumstances of the case and having regard to the nature of the issue involved, the petition was taken up for final consideration today.

1.1 Rule, returnable forthwith. Learned advocate Mr. Utkarsh Sharma waives service of Rule on behalf of respondent No.2.

1.2 Heard learned advocate Mr. Chetan Pandya for the petitioner and learned advocate for the respondent.

2. The petitioner M/s. Purabdhani Enterprise through its proprietor has filed this petition with a prayer to set aside order dated 1.12.2021 passed by respondent No.2 Superintendent, Ghatak-23, Ahmedabad-the authority under the Central Goods and Services Tax Act, 2017, whereby

the registration of the petitioner under the Act came to be cancelled. The ground mentioned in the impugned order for cancellation of registration is that, “during physical verification of your premises by the Anti-Evasion of team of DGGI, Ahmedabad Zone, your firm found to be non-existent and not conducting business from the principal place of business and are engaged in availing/passing on fraudulent ITC. Therefore, your registration is liable for cancellation”.

3. From the record of the petition, learned advocate for the petitioner highlighted that the impugned order is a result of the second round initiated by the authorities. It was pointed out that show cause notice dated 9.11.2021 was issued by the authorities under the relevant rules (Annexure G page 25) requiring the petitioner to show cause for cancellation of the registration.

3.1 In that show cause notice, the ground raised was, “registration has been obtained by means fraud, wilful misstatement or suppression of facts”. Thereafter the order came to be passed on 15.11.2021 dropping the said proceedings for cancellation of registration which were initiated pursuant to said notice dated 9.11.2021. The order of dropping of the proceedings for cancellation figures on record of the petition (Annexure H, page 26).

3.2 Again an another notice dated 26.11.2021 came to be issued calling upon the petitioner to show cause as to why registration should not be cancelled. It is this notice which culminated into the impugned order.

4. Learned advocate for the petitioner was vehement in pointing out that on the same ground earlier show cause notice was issued for cancellation of the registration and subsequently came to be dropped. He submitted that now once again the notice has been issued on the same

ground and the order came to be passed on all together a different ground for cancelling the registration.

5. Juxtaposing the earlier show cause notice 9.11.2021 and the impugned order in this petition, it could be immediately noticed that while the earlier show cause notice seeking cancellation of registration was based on the ground that firm of the petitioner was non-existent and that business was not being run, the show cause notice dated 26.11.2021 impugned in the present petition mentioned the ground that registration was obtained by means fraud, willful misstatement or suppression of facts.

5.1 While the above facts emerge from the record, it is not necessary to enter into the arena of adjudication in the above regard, inasmuch as it could be readily noticed that a revocation application dated 4.2.2022 submitted by the petitioner under section 30 of the Central Goods and Services Tax Act 2017 has been pending undecided since long with the authorities. A copy of the said application dated 4.2.2022 is on record of the petition (page No. 33). As per section 30 of the Act, any aggrieved person, whose registration is cancelled by the proper office on his own motion, may apply to such officer for revocation of cancellation of the registration in the prescribed manner within thirty days from the date of service of the cancellation order registration

5.2 When the application as above is already filed and has remained undecided, the proper course to be followed by this court would be to require the competent authority of the respondents to decide the said revocation application treating it to have been made in accordance with section 30 of the Act more particularly with regard to the time limit within which it was required to be made.

6. Accordingly, the competent authority of the respondent is hereby directed to take a decision in accordance with law on the said revocation application within a period of six weeks from the date of receipt of this order.

6.1 Even as the facts in the background are noticed, this court has desisted from going into them to express any opinion on the merits of the same.

7. The petition is allowed in the aforesaid terms. Rule is made absolute to the said extent. Direct service is permitted.

(N.V.ANJARIA, J)

(BHARGAV D. KARIA, J)

C.M. JOSHI

