

Court No. - 5

Case :- WRIT TAX No. - 1180 of 2023

Petitioner :- Vishwanath Traders And 2 Others

Respondent :- Union Of India And 4 Others

Counsel for Petitioner :- Aditya Gupta, Harsh Vardhan Gupta

Counsel for Respondent :- A.S.G.I., C.S.C., Om Prakash Mishra

Hon'ble Piyush Agrawal, J.

1. Heard learned counsel for the petitioners and learned Standing Counsel for the respondents.

2. The instant Writ Tax is being entertained by this Court in view of the fact that G.S.T. Tribunal is not functional in the State of Uttar Pradesh pursuant to the Gazette notification of the Central Government bearing number CG-DL-E-14092023-248743 dated 14.09.2023.

3. By means of present petition, the petitioners are assailing the order dated 03.09.2021 passed by respondent no.5 and the order dated 28.07.2023 passed by respondent no. 4.

4. With the consent of learned counsel for the parties, the present writ petition is disposed of without exchanging of affidavits as the first appellate authority has rejected the appeal without assigning any reason.

5. Learned counsel for the petitioners submits that the registration has been cancelled to which neither any information nor the cancellation order was ever served upon the petitioner(s). He further submits that when the petitioners came to know about the said fact from its banker i.e. H.D.F.C. Bank that his account has been freezed by the order of the respondent-Assistant Commissioner, thereafter, the petitioners contacted the respondent authorities then it was informed that the cancellation order has been passed, as the Input Tax Credit being taken on the purchases made from M/s Anant Enterprises of Kanpur have been found to be bogus, hence on the alleged ground, the registration has been cancelled without giving any opportunity or notice to the petitioner(s). On getting the information undated, the order has been received against which, the appeal was preferred, which has been dismissed without assigning any reason, a copy of the same

has been annexed as Annexure-2 to this petition.

6. In support of his submission, learned counsel for the petitioners placed reliance upon the recent judgment of this Court, on an identical sets of fact, passed in **Writ Tax No.1476 of 2022 (M/s Namu Narayan Singh Vs. State of U.P., and 2 Ors.)**, decided on 10.10.2023.

7. Rebutting to the said submission, learned counsel appearing for the State authorities supports the impugned order and prays for dismissal of the writ petition.

8. After hearing the counsel for the parties, the Court has perused the records.

9. From the perusal of the impugned order, it transpires that the same has been passed without recording any cogent reason for cancelling the GST registration of the petitioner no.3 and appellate authority has also dismissed the appeal filed by the petitioner (s) summarily without assigning any reason.

10. In the recent judgment of this Court passed in the case of **Namu Narayan Singh (supra)**, on an identical sets of fact, in para Nos. 9, 10, 11, 12, 13, 14 & 15 has held as under:-

*"9.An order without valid reasons cannot be sustained. To give reasons is the rule of natural justice, highlighting this rule, Hon'ble Supreme Court held in the case of **The Secretary & Curator, Victoria Memorial v. Howrah Ganatantrik Nagrik Samity and ors., JT 2010(2)SC 566 para 31 to 33 as under :***

"31. It is a settled legal proposition that not only administrative but also judicial order must be supported by reasons, recorded in it. Thus, while deciding an issue, the Court is bound to give reasons for its conclusion. It is the duty and obligation on the part of the Court to record reasons while disposing of the case. The hallmark of an order and exercise of judicial power by a judicial forum is to disclose its reasons by itself and giving of reasons has always been insisted upon as one of the fundamentals of sound administration justice - delivery system, to make known that there had been proper and due application of mind to the issue before the Court and also as an essential requisite of principles of natural justice. The giving of reasons for a decision is an essential attribute of judicial and judicious disposal of a matter before Courts, and which is the only indication to know about the manner and quality of exercise undertaken, as also the fact that the Court concerned had really applied its mind. " [Vide State of Orissa Vs. Dhaniram Luhar (JT 2004(2) SC 172 and State of Rajasthan Vs. Sohan Lal & Ors. JT 2004 (5) SCC 338:2004 (5) SCC 573].

32. Reason is the heartbeat of every conclusion. It introduces clarity in an

order and without the same, it becomes lifeless. Reasons substitute subjectivity by objectivity. Absence of reasons renders the order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum. [Vide *Raj Kishore Jha Vs. State of Bihar & Ors.* AIR 2003 SC 4664; *Vishnu Dev Sharma Vs. State of Uttar Pradesh & Ors.* (2008) 3 SCC 172; *Steel Authority of India Ltd. Vs. Sales Tax Officer, Rourkela I Circle & Ors.* (2008) 9 SCC 407; *State of Uttaranchal & Anr. Vs. Sunil Kumar Singh Negi* AIR 2008 SC 2026; *U.P.S.R.T.C. Vs. Jagdish Prasad Gupta* AIR 2009 SC 2328; *Ram Phal Vs. State of Haryana & Ors.* (2009) 3 SCC 258; *Mohammed Yusuf Vs. Faij Mohammad & Ors.* (2009) 3 SCC 513; and *State of Himachal Pradesh Vs. Sada Ram & Anr.* (2009) 4 SCC 422].

33. Thus, it is evident that the recording of reasons is principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision making. The person who is adversely affected may know, as why his application has been rejected.

(Emphasis supplied)

10. Further, Hon'ble Supreme Court in the case of ***Chandana Impex Pvt. Ltd. Vs. Commissioner of Customs, New Delhi***, 2011(269)E.L.T. 433 (S.C.)(para 8) held as under :

"8. Having bestowed our anxious consideration on the facts at hand, we are of the opinion that there is some merit in the submission of learned counsel for the appellant that while dealing with an appeal under Section 130 of the Act, the High Court should have examined each question formulated in the appeal with reference to the material taken into consideration by the Tribunal in support of its finding thereon and given its reasons for holding that question is not a substantial question of law. It needs to be emphasised that every litigant, who approaches the court for relief is entitled to know the reason for acceptance or rejection of his prayer, particularly when either of the parties to the lis has a right of further appeal. Unless the litigant is made aware of the reasons which weighed with the court in denying him the relief prayed for, the remedy of appeal will not be meaningful. It is that reasoning, which can be subjected to examination at the higher forums. In *State of Orissa Vs. Dhaniram Luhar*² this Court, while reiterating that reason is the heart beat of every conclusion and without the same, it becomes lifeless, observed thus :

"8.....Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made;....."

11. Following this very view, the Supreme Court in *State of Rajasthan v. Rajendra Prasad Jain*, (2008)15 SSC 711 stated that 'reason is the heartbeat of every conclusion, and without the same it becomes lifeless.

12. Providing of reasons in orders is of essence in judicial proceedings. Every litigant who approaches the Court with a prayer is entitled to know the

reasons for acceptance or rejection of such request. Either of the parties to the lis has a right of appeal and, therefore, it is essential for them to know the considered opinion of the Court to make the remedy of appeal meaningful.

13. It is the reasoning which ultimately culminates into final decision which may be subject to examination of the appellate or other higher Courts. It is not only desirable but, in view of the consistent position of law, mandatory for the Court or Authority to pass orders while recording reasons in support thereof, however, brief they may be. It is a settled canon of legal jurisprudence that the Courts/Authorities are vested with discretionary powers but such powers are to be exercised judiciously, equitably and in consonance with the settled principles of law. Whether or not, such judicial discretion has been exercised in accordance with the accepted norms, can only be reflected by the reasons recorded in the order impugned before the higher Court. Often it is said that absence of reasoning may ipso facto indicate whimsical exercise of judicial discretion.

14. Reason is the heart beat of every conclusion. In the absence of reasons the order becomes lifeless. Non recording of reasons renders the order to be violative of principles of natural justice. Reasons ensures transparency and fairness in decision making. It enables litigant to know reasons for acceptance or rejection of his prayer. It is statutory requirement of natural justice. Reasons are really linchpin to administration of justice. It is link between the mind of the decision taker and the controversy in question. Thus failure to give reasons amounts to denial of justice.

*15. In view of above, the writ petition is **allowed**. The impugned orders are set aside.*

16. The matter is remitted back to the the first appellate authority who shall pass a fresh reasoned and speaking order in accordance with law, expeditiously, preferably within a period of two months from the date of production of a certified copy of this order, after affording reasonable opportunities of hearing to the parties concerned."

11. Looking to the facts and on perusal of the above-quoted judgment, it is clear that the facts of the present case is squarely covered in the aforesaid judgment, hence the impugned orders cannot sustain.

*12. The writ petition is **allowed**. The matter is remitted back to the the first appellate authority who shall pass a fresh reasoned and speaking order in accordance with law, expeditiously, preferably within a period of two months from the date of production of a certified copy of this order, after affording reasonable opportunities of hearing to the parties concerned.*

Order Date :- 17.10.2023

Pravesh Mishra