
[2022] 145 taxmann.com 562 (Andhra Pradesh)/[2023] 69 GSTL 173 (Andhra Pradesh)[16-11-2022]

GST : Where both show cause notice and order of cancellation of registration were dubious and they were failing to divulge misdeed or fraud committed by petitioner- assessee, order for cancellation of registration was to be set aside

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[2022] 145 taxmann.com 562 (Andhra Pradesh)

HIGH COURT OF ANDHRA PRADESH

S.A. Traders

v.

Goods & Service Tax Officer, Kadapa, A.P.*

U. DURGA PRASAD RAO AND T. MALLIKARJUNA RAO, JJ.

W.P. NO. 36673 OF 2022

NOVEMBER 16, 2022

Registration - Cancellation of - Maintainability - Both show cause notice as well as order of cancellation of registration were dubious and they were failing to divulge misdeed or fraud committed by petitioner- assessee - While show cause notice, stated that petitioner had committed fraud, willful misstatement or suppression of facts, order of cancellation of registration said that petitioner had not submitted clear records - Both of them were not clear enough to understand mind of issuing authority - Hence, impugned show cause notice as well as order for cancellation of registration were not sustainable [Section 29 of Central Goods and Services Tax Act, 2017/Andhra Pradesh Goods and Services Tax Act, 2017] [Para 6] [In favour of assessee]

CASE REVIEW

S.B. Traders v. Superintendent - W.P. Nos. 39498 & 39502 of 2022, decided on 28-10-2022 — Relied on [Paras 4, 5].

CASES REFERRED TO

S.B. Traders v. Superintendent [2022] 145 taxmann.com 556 (Telangana) (para 4).

Sri. **Bhaskar Reddy Vemireddy**, Ld. Govt. Pleader *for the Petitioner*.

ORDER

U. Durga Prasad Rao, J. - The petitioner assails the cancellation of the registration of the petitioner under the GST Act, 2017 is being illegal, arbitrary and without following the principles of natural justice and for a consequential direction to set aside the impugned proceedings of the 1st respondent dated 20-10-2022.

2. Heard learned counsel for the petitioner Sri Bhaskar Reddy Vemireddy and learned Government Pleader for Commercial Taxes-II.

3. The grievance of the learned counsel for the petitioner is that both the impugned show cause notice dated 1-10-2022 and the order for cancellation of registration dated 20-10-2022 could not able to show any violation inasmuch as, they themselves are precast to that effect as in the show cause notice it has been mentioned "in case the registration has been obtained by means of fraud, willful misstatement or suppression of facts" and

equally in the cancellation order, it has been mentioned "On verification of *GSTR 1* v. *GSTR 3B* returns and sales turnover, it is observed that, within a span of five months, the TRP has made purchase and sale of scrap worth of Rs.9.63 Crores for which he has not submitted clear records. Hence the transactions appear to be suspicious and hence registration is hereby cancelled (emphasis supplied)".

4. Learned counsel would submit that in the show cause notice as well as the impugned cancellation order do not divulge any of the mistake or fraud or misdeed committed by the petitioner in the due course of his business and therefore both show cause notice and order for cancellation of registration are not sustainable in the eye of law. Learned counsel would submit that in similar circumstances in *S.B. Traders v. Superintendent* [2022] 145 taxmann.com 556 Hon'ble High Court of Telangana passed an order of setting aside the cancellation of GST registration. Besides, directing the Principal Commissioner of Central Tax, Hyderabad Commissionerate, to look into the conduct and functioning of the 1st respondent therein and to take remedial steps.

5. We have gone through the impugned show cause notice and order for cancellation of registration and found force in the submission of learned counsel for the petitioner, for, both show the cause notice as well as the order of cancellation of registration are dubious enough and failing to divulge the misdeed or fraud allegedly committed by the petitioner. While the show cause notice says that in case the petitioner has committed any fraud, willful misstatement or suppression of facts, the order of cancellation of registration says that he has not submitted clear records. Both of them are not clear enough to understand the mind of the issuing authority. Therefore, we have no occasion to hold that both impugned show cause notice as well as the order for cancellation of registration are not sustainable in the eye of law. In similar circumstances, Hon'ble High Court of Telangana has set aside the impugned order of cancellation of the GST registration of the petitioner therein.

6. Accordingly, this writ petition is allowed and the impugned order for cancellation of registration dated 20.10.2022 and show 4 cause notice dated 01.10.2022 are hereby set aside giving liberty to the 1st respondent to issue fresh show cause notice in accordance with the governing law and rules to the petitioner indicating therein the clear reasons for the violations if any and give sufficient time to the petitioner herein to submit objections/reasons and consider the same and pass an appropriate order. No costs.

As a sequel, interlocutory applications pending, if any, shall stand closed.

SHREYA

*In favour of assessee.