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[2024] 159 taxmann.com 611 (Andhra Pradesh)[02-02-2024]

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**GST : Show cause notice was vague since no specific provision which was violated by assessee was mentioned in said show cause notice, order of rejection of application for revocation of cancellation of registration passed by revenue was to be set aside and matter was remitted back**

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[2024] 159 taxmann.com 611 (Andhra Pradesh)

**HIGH COURT OF ANDHRA PRADESH**

**Kanyaka Parameswari Oils (P.) Ltd.**

**v.**

**Deputy Commissioner, Andhra Pradesh.**

**U. DURGA PRASAD RAO AND SMT. KIRANMAYEE MANDAVA, JJ.**

**WRIT PETITION NO. 2282 OF 2024**

**FEBRUARY 2, 2024**

**Registration - Cancellation of - Vague Show cause notice - Show cause notice was issued by revenue stating that registration of assessee was liable to be cancelled for "non-compliance of any specific provision in the GST Act or the Rules made thereunder as may be prescribed" - Since issuing authority's name was not mentioned in show cause notice dated 25.08.2023, assessee could not take immediate steps to file reply - In meanwhile, an order for cancellation of registration was passed and in spite of submitting record, same was not considered and assessee's application for revocation of cancellation was also rejected - HELD : Show cause notice was vague since no specific provision which was violated by assessee was mentioned in said show cause notice, order of rejection of application for revocation of cancellation passed by revenue was to be set aside and matter was remitted back [Section 29 of Central Goods and Services Tax Act, 2017/Andhra Pradesh Goods and Services Tax Act, 2017][Paras 4 and 5][In favour of assessee]**

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## **ORDER**

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**U. Durga Prasad Rao, J. -** In this writ petition filed under Article 226 of the Constitution of India, the petitioner seeks the following relief:

"pleased to issue an appropriate Writ Order or Direction more particularly in the nature of MANDAMUS declaring that the impugned Suo Motu Order of Cancellation of Registration *vide* Reference 4 Number ZA3710230016054 date 3-10-2023 passed by the Second Respondent cancelling the Registration of the Petitioner and the impugned Order of Rejection of Application for Revocation of Cancellation *vide* Reference No. ZA370124031535 dated 24-1-2024 passed by the First Respondent rejecting the Application for revocation of cancellation submitted by the Petitioner are both arbitrary capricious without jurisdiction or authority violative of the principles of natural justice violative of the Fundamental Rights guaranteed under Article 191g and 21 of the Constitution of India contrary to law unjustified and illegal and consequently *set aside* the same"

2. Heard learned counsel for petitioner Sri G.Narendra Chetty, Sri B.V.S.Chalapathi Rao, learned Standing Counsel for respondents 1 & 2 and Y.V.Anil Kumar, learned Central Government Counsel representing respondent No. 3.

3. Learned counsel for petitioner would submit that the dubious show cause notice dated 25-8-2023 was issued by the 2nd respondent stating that the registration of the petitioner is liable to be cancelled for "non-compliance of any specific provision in the GST Act or the Rules made thereunder as may be prescribed". Learned counsel would submit that the show cause notice is as vague as it could be since no specific provision which was violated by the petitioner was mentioned in the said show cause notice.

Learned counsel would submit that since the issuing authority's name is not mentioned in the show cause notice dated 25-8-2023, the petitioner could not take immediate steps to file his reply. In the meanwhile, an order for cancellation of registration was passed on 3-10-2023 mentioning the effective date of cancellation of registration as 25-8-2023. Learned counsel would submit that the petitioner submitted an online application dated 28-12-2023 for revocation of cancellation, thereafter, on 10-1-2024 an order in Form GST REG-23 was issued by the Department directing the petitioner to appear before the concerned authority on 12-1-2024. The petitioner submitted the supportive document *vide* reply dated 23-1-2024. Learned counsel would submit that in spite of submitting the record, the same was not considered and an order came to be passed on 24-1-2024 rejecting the petitioner's application for revocation of cancellation. Learned counsel for petitioner would submit that the petitioner has been conducting his trading activities from the same business premises where he earlier used to conduct manufacturing activities and there is no change in the location of his business premises. However, without considering the said aspect and record submitted by him on 23-1-2024, the impugned order of rejection for revocation came to be passed on 24-1-2024.

Learned counsel thus prayed that the impugned order dated 24-1-2024 may be *set aside* and the matter may be remitted to the 2nd respondent to consider the petitioner's submission with reference to his supportive documents and to pass appropriate order.

4. Learned Standing Counsel for respondents 1 & 2 would submit that since the petitioner earlier failed to submit the cogent record showing that he is conducting trading operations from the same business premises where he was earlier conducting the manufacturing operations, his registration was cancelled and his revocation application was also rejected. He would submit that however, if the petitioner submits cogent evidence, the 2nd respondent will consider the same in right perspective and pass orders.

5. In the light of the above respective submissions of both the learned counsel, the order of rejection of application for revocation of the cancellation dated 24-1-2024 passed by the 1st respondent is *set aside* and matter is remitted back to the 2nd respondent with a direction to consider the supportive documents said to be filed by the petitioner and also afford an opportunity of hearing to the petitioner and pass appropriate order regarding the cancellation of the registration expeditiously, but not later than two (2) weeks from the date of receipt of a copy of the order.

6. Accordingly, this writ petition is disposed of. No costs.

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

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