

BOMBAY HIGH COURT

WRIT PETITION NO.8474 OF 2022

DBS Tradelink and Advisors Pvt. Ltd.-Appellant

Versus

The State of Maharashtra and Anr.-Respondent

The Hon'ble JUSTICE MD. NIZAMUDDIN

Date of order: 20/07/2022

Decision-In Favour of assessee

Facts and Issue- Registration of petitioner has been cancelled- It appears that registration is liable to be cancelled for the following reason: in case registration has been obtained by means of fraud, willful misstatement or suppression of facts. There is a digital signature appended in the said document which says signature is not verified. Therefore, we have to take it to be an unsigned document. We fail to understand how it can be an official document.

Findings- The Hon'ble high court observed that both documents indicate non-application of mind, Ms.Vyas states that the officer whose name appears, Kalpana Anil Patil is present in court and she has been informed that these were system generated documents. Ms. Vyas states that even Commissioner had personally informed her that these are system generated documents and the Commissioner has accelerated the problem to the central authority in Delhi. In fact, we would have expected respondents to show what the Hon'ble Gujarat High Court in the case of [Aggarwal Dyeing and Printing Works Vs. State of Gujarat and ors. 2022 \(4\) TMI 864](#), had directed that the department shall issue notices and pass order in physical form containing all the necessary information and particulars. This judgment of Gujarat High Court has been delivered on 24th February, 2022. Still respondents including GST Network (GSTN) have not set their house in order.

The respondents shall restore petitioner's registration forthwith, in any case before 4.30 p.m. today.

Appearance:

Mr. Prakash Shah i/by M/s PDS Legal, Advocate for the petitioner.

Ms. S.D. Vyas, Ms. S.D. Vyas, "B" Panel Counsel for Respondent No.1/State. Mr. Jayant D. Patil, Joint Commissioner (Nodal) present. Mr. Birajdar Arun, Joint Commissioner (Legal) present. Ms. Yasmeen A. Molkar, Deputy Commissioner present. Mr. Kurne, Deputy Commissioner (Legal) present. Mr. Pradip Agre, Assistant Commissioner (Legal) present. Ms. Kalpana Anil Patil, State Tax Officer present. Ms. Manisha J. Tande, State Tax Officer present.

for the respondent.

Case referred/cited :-

JUDGMENT

1. Petitioner has sought the following prayers:-

(a) this Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality thereof be pleased to quash and set aside (i) the Impugned Order dated 05.07.2022 passed by the Respondent No.2 (Exhibit "A") and (ii) the Impugned Show Cause Notice dated 21.04.2022 issued by the Respondent No.2 (Exhibit "B");

(b) this Hon'ble Court be pleased to issue a Writ of Mandamus or a writ in the nature of Mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India ordering and directing the Respondents to forthwith restore the Petitioner's registration no. 27AAECD7278GIZD under the Act."

2. Exhibit B is a copy of the show cause notice which is incomprehensible. The same is scanned and reproduced below:-



3. We do not know how a person is expected to respond to such a show cause notice. It says "it appears that registration is liable to be cancelled for the following reason: in case registration has been obtained by means of fraud, willful misstatement or suppression of facts." The show cause notice does not even allege that petitioner has obtained registration by fraud or willful misstatement or suppression of facts. There is a digital signature appended in the said document which says signature is not verified. Therefore, we have to take it to be an unsigned document. We fail to understand how it can be an official document.

4. The impugned order dated 21st April, 2022 also is incomprehensible. The same is as under :-

5. It says this has reference to reply dated 3rd May, 2022 in response to the show cause notice dated 21st April, 2022. In the next line it says whereas no reply to notice to show cause has been submitted and in the third line it says whereas the undersigned has examined your reply. It ends with the determination of amount payable pursuant to cancellation as zero.

6. When we observed that both documents indicate non-application of mind, Ms. Vyas states that the officer whose name appears, Kalpana Anil Patil is present in court and she has been informed that these were system generated documents. Ms. Vyas states that even Commissioner had personally informed her that these are system generated documents and the Commissioner has accelerated the problem to the central authority in Delhi. In fact, we would have expected respondents to show what the Hon'ble Gujarat High Court in the case of [Aggarwal Dyeing and Printing Works Vs. State of Gujarat and ors. 2022 \(4\) TMI 864](#), had directed that the department shall issue notices and pass order in physical form containing all the necessary information and particulars. This judgment of Gujarat High Court has been delivered on 24th February, 2022. Still respondents including GST Network (GSTN) have not set their house in order.

7. In the circumstances, we have no option but to quash and set aside the impugned order. Even the show cause notice is hereby quashed and set aside. It is open to respondents to proceed further in accordance with law, but not in a digital form until the problem is resolved. Respondents shall issue notices and pass order in physical form unless the network problem is resolved.

8. Paragraph 18 of the petition reads as under :-

“The Petitioner submits that the remedy by way of revocation under [Section 30](#) of the CGST Act is neither alternate nor efficacious remedy against the impugned order dated 05.07.2022 passed by the Respondent No.2. It is submitted the impugned order has been passed in breach of

Citation no. 2022 (7) GST Panacea 202 HC Bombay

principal of natural justice in as much as the letter relied upon by Respondent No.2 were never provided to the Petitioner. In view of peculiar facts of the present case, the Petitioner is entitled to invoke the jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India. The impact of the impugned order is far reaching and the Petitioner is unable to carry on its business. The Petitioner submits that the reliefs prayed for herein if granted, would afford to them complete relief and justice to the Petitioner."

9. The respondents shall restore petitioner's registration forthwith, in any case before 4.30 p.m. today.

10. Petition disposed accordingly.