

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 :-

1. [Aggarwal Dyeing and Printing Works versus State of Gujarat](#)

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:-

Form GST REG-17/31

[See Rule 22(1)/ sub-rule (2A) of rule 21A]

Reference Number: ZA270422137386J**Date:** 21/04/2022

To

Registration Number (GSTIN/Unique ID): 27AAECD7278G1ZD

DBS TRADELINK AND ADVISORS PRIVATE LIMITED

OFFICE NO.126, VARDHAMAN MARKET,1ST FLOOR,PLOT NO.75,SECTOR-17,VASHI NAVI

MUMBAI,Mumbai,Maharashtra,400703

Show Cause Notice for Cancellation of Registration

Whereas on the basis of information which has come to my notice, it appears that your registration is liable to be cancelled for the following reasons:

- 1 In case, Registration has been obtained by means of fraud, wilful misstatement or suppression of facts.

You are hereby directed to furnish a reply to the notice within seven working days from the date of service of this notice.

If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex parte on the basis of available records and on merits .

Please note that your registration stands suspended with effect from 21/04/2022

Place: Maharashtra

Date: 21/04/2022

Signature Not Verified

Digitally signed by DS GOODS AND
SERVICES TAX NETWORK(4)
Date: 2022.04.21 13:45:54 IST

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, wilful 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 :-

FORM GST REG-19

[See Rule 22(3)]

Reference Number: ZA270722032719C

Date: 05/07/2022

To

FANTASIA TRADE PRIVATE LIMITED

708,7th Floor,Haware Infotech Park,Plot No 39/3, Sector 30AOpp Inorbit Mall,Navi Mumbai,Thane,Maharashtra,400703

GSTIN/ UIN :27AAFCG2724B1Z2

Application Reference No. (ARN): AA2704221148584

Dated: 21/04/2022

Order for Cancellation of Registration

This has reference to your reply dated 08/06/2022 in response to the notice to show cause dated 21/04/2022

Whereas no reply to notice to show cause has been submitted;

Whereas the undersigned has examined your reply and submissions made at the time of hearing, and is of the opinion that your registration is liable to be cancelled for following reason(s).

1. As per letter received from Dy. Commr. (A/E), CGST & C. Ex , Bhiwandi Commissionerate No.V/CGST/BHIWANDI/AE/371/21-22 dated 10/03/2022 & letter of Commissioner of CGST AND CENTRAL EXCISE Commissionerate Belapur No. F.NO. V/AE/BEL/Gr G/12-430/Fantasia/2021-22 Navi Mumbai 18/02/2022 & after verification on system and visit done by this office at POB & APOB of the Tax payer.

The effective date of cancellation of your registration is 01/07/2017

Determination of amount payable pursuant to cancellation:

Accordingly, the amount payable by you and the computation and basis thereof is as follows:

The amounts determined as being payable above are without prejudice to any amount that may be found to be payable you on submission of final return furnished by you.

You are required to pay the following amounts on or before 15/07/2022 failing which the amount will be recovered in accordance with the provisions of the Act and rules made thereunder.

Head	Central Tax	State Tax/UT Tax	Integrated Tax	Cess
Tax	0	0	0	0
Interest	0	0	0	0
Penalty	0	0	0	0
Others	0	0	0	0
Total	0.0	0	0	0.0

Place: Maharashtra

Date :05/07/2022

Digitally signed by DS GOODS AND SERVICES TAX NETWORK(4)
Date: 2022.07.05 18:45:46 IST

MANISHA JAGDISH TANDEL
State Tax Officer
VASHI-TURBHE_703

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 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.