

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 8389 of 2022

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PANAQUA TRADECOM PRIVATE LIMITED
Versus
STATE OF GUJARAT

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Appearance:

MR PRAKASH SHAH, SENIOR ADVOCATE WITH MS. DIMPLE K. GOHIL(7451) for the Petitioner(s) No. 1
for the Respondent(s) No. 2,3
MR UTKARSH SHARMA, AGP ADVANCE COPY SERVED TO GOVERNMENT PLEADER/PP for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE J.B.PARDIWALA
and
HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 27/04/2022

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)

1. Rule returnable forthwith. Mr. Utkarsh Sharma, the learned AGP waives service of notice of rule for and on behalf of the respondents.

2. By this writ-application under Article-226 of the Constitution of India, the writ-applicant has prayed for the following reliefs:-

12(a) 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 the show cause notice dated 11.03.2021 and the impugned order dated 23.03.2021 passed by Respondent No.3 purporting to cancel the registration of the petitioner;

(b) Be pleased to issue a writ of mandamus or any other appropriate writ in the nature of mandamus ordering and directing the respondents to forthwith refrain from taking any further steps or proceeding pursuant to or in implementation of the impugned order dated 23.03.2021 passed by respondent no.3;

(c) That pending the hearing and final disposal of the above petition, be pleased to stay the effect and operation of impugned order dated 23.03.2021;

(d) An ex-parte ad-interim relief in terms of prayer (c) above may kindly be granted;

(e) Such other and further order or orders as may be deemed just and proper in the facts and circumstances of the present case may kindly be granted.

3. The writ-applicant is engaged in the business of trading of bullion and agricultural commodities. The writ-applicant is registered under the GGST Act with effect from 14.02.2018. The writ-applicant came to be served with a show-cause notice dated 11.03.2021 in the Form GST REG-17/31 calling upon the writ-applicant to show-cause as to why his registration under the Act should not be cancelled. The show-cause notice reads thus:-

Form GST REG-17/31

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

Reference Number:ZA2403211391419

Date:11/03/2021

To,
Panaqua tradecom private limited
SF-24, SILVER PLAZA, NAVJIVAN MILL COMPOUND,
KALOL, Gandhinagar, Gujarat 382721.

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.

You are hereby directed to appear before the undersigned on 15/03/2021 at 11:30 AM.

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 merits.

Please note that your registration stands suspended with effect from 11/03/2021.

Place:Gujarat

Date: 11/03/2021

Validity unknown

*Digitally signed by DS GOODS AND SERVICES TAX NETWORK(4)
Date:2021.03.11 17:15:54 IST*

*PRAVEEN KUMAR RANA
Superintendent*

Ghatak 35 (Deesa):Range-8:Division-4, Gujarat

4. It appears that thereafter the final order cancelling the registration came to be passed on 23.03.2021. The same reads thus:-

Form GST REG-19

[See Rule 22(3)]

Reference Number:ZA240321187238M

Date:23/03/2021

To,

*Panaqua tradecom private limited
SF-24, SILVER PLAZA, NAVJIVAN MILL COMPOUND,
KALOL, Gandhinagar, Gujarat 382721.
GSTIN/UIN:24AAICA6715F1ZW*

Application Reference No.(ARN):AA240321038337L

Dated: 11/03/2021

Order for Cancellation of Registration

This has reference to your reply dated 18/03/2021 in response to the notice to show cause dated 11/03/2021.

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. Registration is cancelled as per order dated 08.03.2021 vide F.No.GEXCOM/AE/INV/GST/2667/2021-AE-O/0 COMM-R-CGST-GANDHINAGAR, issued by Assistant Commissioner.

The effective date of cancellation of your registration is 23/03/2021.

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 failing which the amount will be recovered in accordance with the provisions of the Act and rules made thereunder.

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

*Place: RANGE I
Date:23/03/2021*

Validity unknown

*Digitally signed by DS GOODS AND
SERVICES TAX NETWORK(4)
Date:2021.03.23 13:17:44 IST*

*Praveen Kumar Rana
Superintendent
Ghatak 35 (Deesa)*

5. We have heard Mr. Prakash Shah, the learned senior counsel assisted by Ms. Dimple Gohil, the learned advocate appearing for the writ-applicant and Mr. Utkarsh Sharma, the learned AGP appearing for the respondents.

6. The show cause notice, referred to above, and the impugned order are as vague as anything. The issue is now covered by the decision of this Court in the case of ***Aggarwal Dyeing and Printing Works vs. State of Gujarat & 2 Ors., Special Civil Application***

No.18860 of 2021, decided on 24.02.2022.

7. In view of the aforesaid, this writ application succeeds and is hereby allowed. The impugned order cancelling the registration and the show cause notice is hereby quashed and set aside. The registration stands restored.

If the department wants to proceed further it may do so strictly in accordance with law keeping in mind the observations made by this Court in the case of *Aggarwal Dyeing and Printing Works (Supra)*.

A. B. VAGHELA

(J. B. PARDIWALA, J)

(NISHA M. THAKORE, J)

