

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 11262 of 2020

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M/S MAHADEV TRADING COMPANY
Versus
UNION OF INDIA

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Appearance:
MR PARESH DAVE FOR MR A S TRIPATHI(7613) for the Petitioner(s) No. 1
for the Respondent(s) No. 1,2,3

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CORAM:**HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH**
and
HONOURABLE MR. JUSTICE J.B.PARDIWALA

Date : 28/09/2020

ORAL ORDER
(PER : HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH)

1 We have heard Mr. Paresh Dave, learned counsel for the petitioner assisted by Mr. A.S.Tripathi and Mr. Parth Bhatt, learned counsel appearing for the respondent No.2. Mr. Prem Raj Meena, Superintendent, Ghatak 18 (Ahmedabad), Range-5, Division-2, Gujarat is also present before us.

2 Mr. Meena is the signatory of the show cause notice as also the impugned order of cancellation both of which are assailed in the writ petition. We have directed for the appearance of Mr. Meena upon perusal of the show cause notice dated 20.07.2020 (Annexure-H to the petition). Perusal of the same indicates that to such show cause notice no response can be given by any assessee. The show

cause notice is as vague as possible and does not refer to any particular facts much less point out so as to enable the noticee to give his reply. The contents of the show cause notice dated 20.07.2020 are reproduced below:

"Form GST REG-17

[See Rule 22(1)]

Reference Number:ZA2407200794641

Date :20/07/2020

To
INDRESH KUMAR
3, SOMNATH SHOPPING CENTER,
SMRUTI MANDIR CANAL ROAD
GHODASAR, AHMEDABAD,
Ahmedabad, Gujarat,380050

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, willful 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.

Place : Gujarat

Date : 20/07/2020

*Prem Raj Meena
Superintendent
Ghatak 18(Ahmedabad):
Range-5:Division-2:Gujarat"*

3 According to learned counsel for the petitioner Mr. Dave, without fixing a date for hearing and without

waiting for any reply to be filed by the petitioner, the cancellation order was passed on 30.07.2020 whereby registration of the petitioners with GST department was cancelled. Although the cancellation order refers to a reply submitted by the petitioner and also about personal hearing, but according to Mr. Dave neither he had submitted any reply nor afforded any opportunity of hearing. This fact is not disputed by Mr. Bhatt.

4 Mr. Bhatt, learned counsel for the respondent No.2 has sought to explain that some discrepancy occurred on account of some technical glitch in the system (on-line portal). The reply filed by the respondent is on record.

5 We are not entering into the merits of the impugned order as we are convinced that the show cause notice itself cannot be sustained for the reasons already recorded above. Therefore, the cancellation of registration resulting from the said show-cause notice also cannot be sustained.

6 For the reasons recorded above, the writ petition succeeds and is allowed. The impugned show cause notice dated 20.07.2020 (Annexure-H) and the impugned cancellation order dated 30.07.2020 (Annexure-I) are hereby quashed. With respect to the other consequence that may follow, the parties would be at liberty to take appropriate steps. Mr. Bhatt made request that the Court may grant

liberty to proceed afresh. We are not inclined to pass such order, but we only observe that if law permits, the respondent No.2 may proceed afresh in accordance with law.

(VIKRAM NATH, CJ)

(J. B. PARDIWALA, J)

A. B. VAGHELA

