

**HON'BL SRI JUSTICE U. DURGA PRASAD RAO
AND
HON'BLE SRI JUSTICE T. MALLIKARJUNA RAO**

W.P.No.36673 OF 2022

ORDER: *(Per Hon'ble Sri Justice U. Durga Prasad Rao)*

The petitioner assails the cancellation of the registration of the petitioner under the GST Act, 2017 is being illegal, arbitrary and without following the principles of natural justice and for a consequential direction to set aside the impugned proceedings of the 1st respondent dated 20.10.2022.

2. Heard learned counsel for the petitioner Sri Bhaskar Reddy Vemireddy and learned Government Pleader for Commercial Taxes-II.

3. The grievance of the learned counsel for the petitioner is that both the impugned show cause notice dated 01.10.2022 and the order for cancellation of registration dated 20.10.2022 could not able to show any violation inasmuch as, in the show cause notice it has been mentioned “in case the registration has been obtained by means of fraud, wilful misstatement or suppression of facts” and

equally in the cancellation order, it has been mentioned “On verification of GSTR 1 vs GSTR 3B returns and sales turnover, it is observed that, within a span of five months, the TRP has made purchase and sale of scrap worth of Rs.9.63 Crores for which he has not submitted clear records. Hence the transactions appear to be suspicious and hence registration is hereby cancelled (emphasis supplied)”.

4. Learned counsel would submit that the show cause notice as well as the impugned cancellation order do not divulge any mistake or fraud or misdeed committed by the petitioner in the due course of his business and therefore both show cause notice and order for cancellation of registration are not sustainable in the eye of law. Learned counsel would submit that in similar circumstances in W.P.Nos.39498 and 39502 of 2022 Hon’ble High Court of Telangana passed an order of setting aside the cancellation of GST registration. Besides, it was directed to the Principal Commissioner of Central Tax, Hyderabad Commissionerate, to look into the conduct and functioning of the 1st respondent therein and to take remedial steps.

5. We have gone through the impugned show cause notice and order for cancellation of registration and found force in the submission of learned counsel for the petitioner, for, both show cause notice as well as the order of cancellation of registration are dubious enough and failing to divulge the misdeed or fraud allegedly committed by the petitioner. While the show cause notice says that “in case” the petitioner has committed any fraud, wilful misstatement or suppression of facts, the order of cancellation of registration says that he has not submitted “clear records.” Both of them are not clear enough to understand the mind of the issuing authority. Therefore, we have no demur to hold that both impugned show cause notice as well as the order for cancellation of registration are not sustainable in the eye of law. In similar circumstances, Hon’ble High Court of Telangana has set aside the impugned order of cancellation of the GST registration of the petitioner therein.

6. Accordingly, this writ petition is allowed and the impugned order for cancellation of registration dated 20.10.2022 and show

cause notice dated 01.10.2022 are hereby set aside giving liberty to the 1st respondent to issue fresh show cause notice in accordance with the governing law and rules to the petitioner indicating therein the clear reasons for the violations if any and give sufficient time to the petitioner herein to submit objections/reasons and consider the same and pass an appropriate order. No costs.

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

U.DURGA PRASAD RAO, J

T. MALLIKARJUNA RAO, J

16.11.2022
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16th November, 2022