

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 25221 of 2022****FOR APPROVAL AND SIGNATURE:****HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI : Sd/-  
and****HONOURABLE MR. JUSTICE DEVAN M. DESAI : Sd/-**

1	Whether Reporters of Local Papers may be allowed to see the judgment ?	NO
2	To be referred to the Reporter or not ?	NO
3	Whether their Lordships wish to see the fair copy of the judgment ?	NO
4	Whether this case involves a substantial question of law as to the interpretation of the Constitution of India or any order made thereunder ?	NO

SONA METALS  
Versus  
STATE OF GUJARAT

**Appearance:****MR MG NANAVATIY for NANAVATI & CO.(7105) for the  
Petitioner(s) No. 1****MR PRANAV TRIVEDI AGP for the Respondent(s) No. 1-3**

**CORAM:HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI  
and  
HONOURABLE MR. JUSTICE DEVAN M. DESAI**

**Date : 15/06/2023****ORAL JUDGMENT****(PER : HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)**

1. Rule. Learned AGP Mr. Pranav Trivedi waives service of notice of rule for respondents.
2. This petition is filed under Article 226 of the Constitution of India, in which, the petitioner has prayed for following reliefs,
  - “(a) To issue a writ in the nature of certiorari and or any other appropriate writs, order or direction for calling on records of proceedings initiated pursuant to show-cause notice dated 01.07.2022 (Annexure P-1) as well as cancellation order dated 15.07.2022 (Annexure P-2) and after perusing the same be pleased to quash and set aside show cause notice dated 01.07.2022 passed by Department and cancellation order dated 15.07.2022 passed by Assistant Commissioner, Chatak 19, Ahmedabad, and be further pleased to direct restoration of registration bearing number 24FZSPM1286G1ZX;
  - (b) To pass an ex-parte ad interim order staying the operation, execution and implementation of the show-cause notice dated 01.07.2022 (Annexure P-1) bearing reference no. ZA240722001120I passed by Department and order dated 15.07.2022 (Annexure P-2) bearing reference no. ZA240722078106N passed by Assistant Commissioner, Chatak 19, Ahmedabad, pending the hearing and final disposal of present

petition; and

(c) xxx xxx xxx."

3. Heard learned advocate, Mr. M.G. Nanavati for the petitioner and learned AGP Mr. Pranav Trivedi for the respondents.
4. It is the case of the petitioner that the petitioner is registered under the Gujarat Goods & Service Tax, 2017 (hereinafter referred to as "GST Act" for short). It is stated that the concerned respondent issued show cause notice dated 01.07.2022 in Form GST REG-17/31 by way of uploading the same on the portal maintained by the department. The said show cause notice was issued under Section 29 of the GST Act read with Rule 22(1) of the GST Rules, 2017. It is the case of the petitioner that no document either in the form of notice or any other document has been received by the petitioner at his registered place of his business.
5. It is further stated by the petitioner that notice dated 01.07.2022 simply speaks that "In case, Registration has been obtained by means of fraud, wilful misstatement or suppression of fact.". Except aforesaid fact, notice does not mention any other information.
6. It is also stated that thereafter, the respondent no.3 passed an order dated 15.07.2022 for cancellation of registration in Form GST REG-19 by way of uploading the same on portal maintained by the department. It is further stated that the

registration of the petitioner was being cancelled pursuant to the show cause notice dated 30.06.2022, but in fact, the petitioner did not receive any such notice dated 30.06.2022 as stated in the impugned order. The petitioner, therefore, has preferred the present petition.

7. Learned advocate, Mr. Nanavati appearing for the petitioner submitted that the show cause notice dated 01.07.2022, copy of which is placed on record at Page No.17 of the compilation, is vague and does not refer to any particular fact much less point out so as to enable the noticee to give its reply. It is further submitted by learned advocate that even while passing impugned order passed by the respondent no.3, reasons are not assigned by the concerned respondent. Leaned advocate has referred to the order dated 15.07.2022 passed by the respondent, copy of which is placed on record at Page No.18 of the compilation. At this stage, it is also pointed out that the order dated 15.07.2022, copy of which is placed on record at Page No.19 of the compilation, was also issued to the petitioner, however in the said order also, the provision of law has been stated and except that, the respondent has failed to assign any reason for cancellation of registration of the petitioner.
8. At this stage, learned advocate, Mr. Nanavati has referred to the affidavit-in-reply filed on behalf of the respondent no.3 and the documents annexed

with the said reply. Learned advocate has referred to the show cause notice dated 30.06.2022 issued by the concerned respondent, copy of which is placed on record at Page No.48 of the compilation. It is submitted that in fact, the said notice dated 30.06.2022 is not received by the petitioner and the respondent has not placed on record any material to suggest that the petitioner has received the notice dated 30.06.2022. Learned advocate, therefore, urged that the impugned order passed by the concerned respondent be quashed and set aside.

9. Learned advocate, Mr. Nanavati has placed reliance upon the order dated 07.06.2023 passed by this Court in Special Civil Application No.903/2023. Learned advocate has also placed reliance upon the order dated 24.02.2022 passed by this Court in case of **Aggrawal Dyeing and Printing Works Vs. State of Gujarat & Ors.** in Special Civil Application No.18860/2021 and allied matters. It is submitted that in similar type of cases, this Court has quashed and set aside the show cause notice issued by the concerned respondent authority. Learned advocate, therefore, urged that this petition be allowed.
10. On the other hand, learned AGP Mr. Trivedi has opposed this petition and has referred to the averments made in the affidavit-in-reply. It is mainly contended that the concerned respondent issued notice dated 30.06.2022 to the petitioner,

copy of which is placed on record at Page No.48 of the compilation. It is submitted that in the said show cause notice, the respondent has provided necessary details to the petitioner so that the petitioner can give reply to the said show cause notice. However, learned AGP, after verifying the original file, has submitted that the said notice was not sent to the petitioner by RPAD, however, the concerned officer has personally gone to the registered office of the petitioner but the premises of the petitioner was found to be closed and, therefore, the said notice was affixed on the door of the premises of the petitioner. It is further submitted that once the respondent authority has passed an order under Section 29 of the GST Act, it is always open for the petitioner to challenge the said order by filing appeal under Section 107 of the GST Act and it is always open for the petitioner to take all contentions before the appellate authority. Learned AGP has, therefore, urged that this petition may not be entertained.

11. Having heard learned advocates for the parties and having gone through the material placed on record, it would emerge that the concerned respondent issued show cause notice dated 01.07.2022 to the petitioner, copy of which is placed on record at Page No.17 of the compilation. The said notice read as under,

"Form GST REG-17/31  
[See Rule 22(1)/sub-rule (2A) of rule 21A]

Reference Number:ZA240722001120I

Date :01/07/2022

To  
Registration Number (GSTIN/Unique ID):24FZSPM1286G1ZL  
MANSURI ALFEX  
F-304, SUMEL 8 OLD BHARAT BOBBIN MILL,  
NR AJIT MILL CHAR RASTA,  
RAKHIAL, AHMEDABAD,  
Ahmedabad, Gujarat,380023

**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.

Please note that your registration stands suspended with effect from 01/07/2022

Place : Gujarat  
Date : 01/07/2022

Signature Not Verified  
Digitally signed byDS GOODS AND  
SERVICES TAX NETWORK(4)  
Date: 2022.07.01, 01:17:21 IST"

12. In similar type of cases, this Court has considered such type of show cause notice, which was issued for cancellation of registration and this Court, after considering the decision rendered in case of **Aggrawal Dyeing (supra)**, has allowed the writ petition being Special Civil Application No.903/2022 by an order dated 07.06.2023. This Court in the said order has observed in Paragraph Nos.9, 10, 11, 12 and 13 as

under,

"[9] The respondent authorities issued impugned show-cause notice dated 06.01.2023 which reads as under:

"Form GST REG-17  
[See Rule 22(1)/sub-rule (2A) of rule 21A]

Reference Number:ZA2401230353816

Date :06/01/2023

To  
Registration Number (GSTIN/Unique  
ID):24HSVPS8030J1ZX  
BALVINDER SINGH  
JAY BAJRANG CO OP HOS SOC,  
SHOP NO2, NR SHASHTRI STEDIUM,  
STEDIUM ROAD, Ahmedabad,  
Ahmedabad, Gujarat,380015

**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.

You are hereby directed to appear before the undersigned on 13/01/2023 at 01:00 PM.

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 06/01/2023

Place : Gujarat

Date : 06/01/2023

Signature Not Verified

Digitally signed by

DS GOODS AND SERVICES

TAX NETWORK 07

Date: 2023.01.06, 15:31:49 IST

[10] From the aforesaid show-cause notice, it is clear that the respondents have not provided in details to the petitioner, how the petitioner has committed fraud, wilful misstatement or suppression of facts; while obtaining the registration, no documents were supplied to the petitioner alongwith the said show-cause notice.

[11] This Court has considered in the similar type of case of **Aggrawal Dyeing (supra)** and observed in para 13.1 and 16 as under:-

"13.1 To say the least, the respondent authority i.e. the Assistant/Deputy Commissioner, State tax Officer ought to have atleast incorporated specific details to the contents of the show cause. Any prudent person would fail to respond to such show cause notice bereft of details thereby making the mechanism of issuing show cause notice a mere formality and an eye wash. 16. When we inquired with the learned AGP appearing for the respondents as to why such vague show cause notices and vague final orders, bereft of any material particulars therein are being passed, the reply on behalf of the respondents was quite baffling. The learned AGP submitted that on account of technical glitches in the portal, the department is finding it very difficult to upload the show cause notice as well as the final order of cancellation of

registration containing all the necessary details and information therein. According to the learned AGP, it is in such circumstances that the show cause notices and impugned orders without any details are being forwarded to the dealers. This hardly can be a valid explanation for the purpose of issuing such vague show cause notices and vague final orders cancelling the registration."

[12] In Special Civil Application No.11262 of 2020, the Division Bench of this Court has considered the similar type of show-cause notice and observed in paras 2, 3, 4, 5 & 6 as under:-

"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."

[13] From the aforesaid order, it reveals that, in the said case as similar type of contentions were raised on behalf of the respondent. However, this Court has quashed and set aside the similar type of show-cause notice issued to the concerned petitioner for cancellation of registration. We are of the view that the present matter is squarely covered by the aforesaid order passed by this Court, therefore, the impugned show-cause notice deserves to be quashed and set aside on the similar grounds."

13. In the present case also, as observed hereinabove, the show cause notice dated 01.07.2022 issued by the respondent to the petitioner is very vague and cryptic. Therefore, it was difficult for the

petitioner to give any reply to the said show cause notice. We are of the view that the issue involved in the present petition is covered by the aforesaid decision.

14. However, it is the case of the respondent that prior to issuance of the show cause notice dated 01.07.2022, in fact, the respondent issued notice on 30.06.2022, copy of which is placed on record at Page No.48 of the compilation. It is contended by learned AGP that in the said notice, specific details are provided to the petitioner so that the petitioner can give reply. However, it is not in dispute that the said show cause notice was not served by RPAD and it is the specific case of the petitioner that the notice dated 30.06.2022 has not been received by the petitioner.
15. It is also pertinent to note that the respondent no.3 has, thereafter, passed an order on 15.07.2022. We have gone through the said order, copy of which is placed on record at Page No.18 of the compilation. Thereafter, another order dated 15.07.2022 was also provide, copy of which is placed on record at Page No.19 of the compilation. We are of the view that in both the aforesaid orders, the concerned respondent has failed to provide specific reasons for cancellation of registration under Section 29(2) of the GST Act.
16. In the aforesaid facts and circumstances of the present case, we are of the view that both the show cause notice as well as the order dated

15.07.2022 deserve to be quashed and set aside.

17. Accordingly, this petition is allowed. The show cause notice dated 01.07.2022 and the order dated 15.07.2022 are hereby quashed and set aside. However, liberty is granted to the respondent authorities to issue fresh notice with particulars of reasons incorporated with details and thereafter to provide reasonable opportunity of hearing to the petitioner and to pass appropriate order in accordance with law. The concerned respondent is hereby directed to restore the registration of the petitioner forthwith. It is needless to mention that it shall be open for the petitioner to respond to such notice by filing objection/reply with necessary documents, if relied upon. It is clarified that this Court has not examined the merits of the case of the parties. Rule is made absolute to the aforesaid extent.

Sd/-  
(VIPUL M. PANCHOLI, J.)



Sd/-  
(D. M. DESAI, J.)

Gautam