



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 17064 of 2024 (O&M)

Reserved on : 18.09.2024

Date of Pronouncement : 23.10.2024

M/s Crystal Beverages

...Petitioner

Versus

Superintendent, Range 2, Rohtak

...Respondent

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE SANJAY VASHISTH**

Present: Mr. Gaurav Chopra, Senior Advocate assisted by
Mr. Akshit Dalal, Mr. Jatin Bansal,
Mr. Mohit Uppal, Advocates, for the petitioner.

Mr. Rishabh Kapoor, Senior Standing Counsel, for the revenue.

SANJEEV PRAKASH SHARMA, J.

1. The present writ petition has been filed for quashing and setting aside the order-cum-show cause notice dated 10.07.2024, whereby the GST registration of the petitioner has been suspended.

2. Brief facts for adjudication of the present petition are that the petitioner company obtained GST registration for its principal place of business on 11.07.2017 under the Central Goods and Services Tax Act, 2017 (for short, 'the GST Act'). Vide order dated 10.02.2019, the registration was amended to incorporate additional place of business informed by the petitioner, which the petitioner had taken on rent from the landlord. The same was approved by the proper officer after due verification without issuance of any memo for deficiency in REG-03. The petitioner had at the time of amendment in the GST Registration placed operation and management registration agreement as proof of address and possession of additional place of business. Since then the petitioner has been running



operation from both the places and is also complying with the GST provisions. In December 2023, the respondents visited at the additional place of business for physical verification on the basis of a complaint filed by the land owner, who wanted the petitioner to vacate the premises. It was alleged that the petitioner is operating business from his land without his consent, hence, committed violation of the GST laws. After the inspection, the complaint was stated to have been dropped. In May 2024, the respondents again visited the additional place of business on the basis of complaint filed by the land owner and demanded no objection from the land owner for operating the business from the said place.

3. A letter was issued by the department on 20.05.2024 seeking initiation of cancellation proceedings as consent letter/NOC from the land owner had not been produced. The petitioner filed response on 08.06.2024 to the impugned letter dated 20.05.2024 pointing out that he was not required to give NOC relating to additional place of business. The respondents have issued the order dated 10.07.2024 suspending the GST registration and also at the same time issuing show cause notice for cancellation of GST registration of the petitioner for the entire business.

4. It is the submission of learned counsel for the petitioner that the provisions governing the GST registration, nowhere requires for providing NOC more than once before the authorities. Rule 19 of the Central Goods and Services Tax Rules, 2017 (for short, 'the GST Rules') which provides for amendment of GST registration also does not require any specific document nor any specific document is required for proof of additional place of business. It is submitted that if there is a dispute raised between the landowner and the tenant, the GST registration already provided to the tenant, after issuance of deficiency notice, cannot be withdrawn and the



action of the respondents was unjustified and illegal. However, it is submitted that in spite of the objections raised by the petitioner, the respondents have suspended the GST registration of the petitioner, without application of mind as the same cancels the entire GST registration which includes the additional place of business as well as the principal place of business. It is submitted that the order of suspension of registration is also laconic and does not give the reasons at length.

5. Learned senior counsel for the petitioner also filed written submission and submitted that Section 25 of the GST Act provides for filing of an application as per the manner prescribed therein. Rule 8(4) of the GST Rules prescribes the application to be submitted in Part-B of Form REG-01, which requires documents in relation to “proof of principal place of business”. As per Rule 19(1) of the GST Rules, an application for amendment is required to be filed in Form-14. There is no requirement to furnish any consent letter or NOC from the property owner for the purpose of declaring additional place of business. Even the FAQ issued by the GST Department clarifies that no proof of possession of an additional place of business is required to be attached with the application.

6. Further, he submits that Section 29 of the GST Act read with Rule 21-A of the GST Rules are the only provisions which lay down the process of cancellation and the grounds on which the proceedings can be invoked by the department for cancellation of registration. Suspension can also be done only for the same reasons. No other ground beyond the statutory mandate could be taken into consideration for cancellation of GST registration and the action of the respondents in cancelling the registration and suspending the registration stating reasons as others is clearly unjustified and illegal. It has been stated that even as on today, the petitioner is running



the business from the additional place of business. The petitioner has never evaded any tax liability and is fully complying the GST laws.

7. Learned counsel for the petitioner has relied on judgments in *M.B. Trading vs State of Tripura* (2023) 10 Centax 232 (Tripura); *Shyam Sundar Sita Ram Traders v State of U.P.* (2023) 11 Centax 70 (All) and *Om Trading vs State of Gujarat* (2023) 12 Centax 109 (Guj.).

8. The respondent has filed the written statement. Learned counsel for the respondent submitted that the additional place of business was added by making amendment in the GST registration and at that time O&M Agreement with other firm M/s VHV Beverages was placed before the authorities and no agreement with the owner of the property has been placed.

9. Learned counsel for the respondent further submitted that M/s VHV Beverages has not been authorized to sublet the property to the petitioner. The office received a complaint from the owner of the property alleging that the petitioner fraudulently added the concerned property as additional place of business without the consent of the owner of the property.

10. Learned counsel for the respondent asserts that as per Rule 8 of the GST Rules read with Form REG-01, Part-B, Column No. 20 (C), it is mandatory to submit NOC or a consent letter from the property owner along with proof of address during registration process and adding or removing additional place of business are covered under the registration process. As the consent letter was not provided for the purpose of adding additional place of business, the registration was wrongfully obtained. After having issued a show cause notice, the petitioner failed to provide any documentary proof qua the same and also requested to amicably solve the issue. The respondents were, therefore, left with no option but to initiate proceedings



under Section 29 of the GST Act read with Rule 22 of the GST Rules for cancellation of registration.

11. Learned counsel for the respondent has also raised plea of alternate remedy of filing of appeal before the appellate authority.

12. We have considered the submissions.

13. Firstly, this Court would deal with the arguments of availability of alternative remedy. We find that the respondent has issued a show cause notice and at the same time suspended the GST registration which results immediately stopping the business of the petitioner.

14. The Three Judges Bench of the Supreme Court in the case of **PHR Invest Educational Society vs UCO Bank and others** 2024 (6) SCC 579, while considering the maintainability of the writ petition on the basis of there being statutory alternate remedy has held that the writ petition is maintainable and observed as under:-

“30. It has however been clarified that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance.”

15. In the present case, we do not find any statutory remedy available with the petitioner to assail the suspension order of GST Registration at the stage of issuance of show cause notice and we, therefore, reject the contention of learned counsel for the respondent not to entertain the writ petition on the ground of availability of alternative remedy.

16. On merits, we find that the petitioner was granted GST registration on 11.07.2017 and amended registration order was also passed on 10.02.2019. Thus, from 2019 onwards the petitioner has been operating his business from the principal place of business as well as from additional



place of business. It is now only when some dispute has arisen between the landlord and the petitioner in December 2023 after about 4 years, the respondent has now issued the impugned letter on 20.05.2024 seeking initiation of cancellation proceedings and order has been passed on 10.07.2024 whereby the suspension of GST registration has been issued on the ground mentioning others.

17. For the purpose of adjudication of this case, it would be apposite to notice certain provisions of law:

Section 29 of the Central Goods and Services Tax Act, 2017.

“29. Cancellation for suspension of registration

(1) The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,-

- (a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or*
- (b) there is any change in the constitution of the business; or*
- (c) the taxable person is no longer liable to be registered under section 22 or section 24 or intends to opt out of the registration voluntarily made under sub-section (3) of section 25:]*

[PROVIDED that during pendency of the proceedings relating to cancellation of registration filed by the registered person, the registration may be suspended for such period and in such manner as may be prescribed.]

(2) The proper officer may cancel the registration of a person from such date, including any retrospective date, as he may deem fit, where,-



- (a) a registered person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or*
- (b) a person paying tax under section 10 has not furnished [the return for a financial year beyond three months from the due date of furnishing the said return]; or*
- (c) any registered person, other than a person specified in clause (b), has not furnished returns for such continuous tax period as may be prescribed]; or*
- (d) any person who has taken voluntary registration under sub-section (3) of section 25 has not commenced business within six months from the date of registration; or*
- (e) registration has been obtained by means of fraud, willful misstatement or suppression of facts:*

PROVIDED that the proper officer shall not cancel the registration without giving the person an opportunity of being heard:

[PROVIDED FURTHER that during pendency of the proceedings relating to cancellation of registration, the proper officer may suspend the registration for such period and in such manner as may be prescribed.]

(3) The cancellation of registration under this section shall not affect the liability of the person to pay tax and other dues under this Act or to discharge any obligation under this Act or the rules made thereunder for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

(4) The cancellation of registration under the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, as the case may be, shall be deemed to be a cancellation of registration under this Act.

(5) Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic



credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed:

PROVIDED that in case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher.

(6) The amount payable under sub-section (5) shall be calculated in such manner as may be prescribed.”

Rule 19 of the Central Goods and Services Tax Rules, 2017.

“19. Amendment of registration

(1) Where there is any change in any of the particulars furnished in the application for registration in FORM GST REG-01 or FORM GST REG-07 or FORM GST REG-09 or FORM GST REG-10 or for Unique Identity Number in FORM GST-REG-13, either at the time of obtaining registration or Unique Identity Number or as amended from time to time, the registered person shall, within a period of fifteen days of such change, submit an application, duly signed or verified through electronic verification code, electronically in FORM GST REG-14, along with the documents relating to such change at the common portal, either directly or through a Facilitation Centre notified by the Commissioner:

PROVIDED that-

- (a) where the change relates to,-*
 - (i) legal name of business;*
 - (ii) address of the principal place of business or any additional place(s) of business; or*



(iii) addition, deletion or retirement of partners or directors, Karta, Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for the day to day affairs of the business,-

which does not warrant cancellation of registration under section 29, the proper officer shall, after due verification, approve the amendment within a period of fifteen working days from the date of the receipt of the application in FORM GST REG-14 and issue an order in FORM GST REG-15 electronically and such amendment shall take effect from the date of the occurrence of the event warranting such amendment;

- (b) the change relating to sub-clause (i) and sub-clause (iii) of clause (a) in any State or Union territory shall be applicable for all registrations of the registered person obtained under the provisions of this Chapter on the same Permanent Account Number;*
- (c) where the change relates to any particulars other than those specified in clause (a), the certificate of registration shall stand amended upon submission of the application in FORM GST REG-14 on the common portal;*
- (d) where a change in the constitution of any business results in the change of the Permanent Account Number of a registered person, the said person shall apply for fresh registration in FORM GST REG-01:*

PROVIDED FURTHER that any change in the mobile number or e-mail address of the authorised signatory submitted under this rule, as amended from time to time, shall be carried out only after online verification through the common portal in the manner provided under [sub-rule (2) of rule 8].



[(1A) Notwithstanding anything contained in sub-rule (1), any particular of the application for registration shall not stand amended with effect from a date earlier than the date of submission of the application in FORM GST REG-14 on the common portal except with the order of the Commissioner for reasons to be recorded in writing and subject to such conditions as the Commissioner may, in the said order, specify.]

(2) Where the proper officer is of the opinion that the amendment sought under sub-rule (1) is either not warranted or the documents furnished therewith are incomplete or incorrect, he may, within a period of fifteen working days from the date of the receipt of the application in FORM GST REG-14, serve a notice in FORM GST REG-03, requiring the registered person to show cause, within a period of seven working days of the service of the said notice, as to why the application submitted under sub-rule (1) shall not be rejected.

(3) The registered person shall furnish a reply to the notice to show cause, issued under sub-rule (2), in FORM GST REG-04, within a period of seven working days from the date of the service of the said notice.

(4) Where the reply furnished under sub-rule (3) is found to be not satisfactory or where no reply is furnished in response to the notice issued under sub-rule (2) within the period prescribed in sub-rule (3), the proper officer shall reject the application submitted under sub-rule (1) and pass an order in FORM GST REG-05.

(5) If the proper officer fails to take any action,-

(a) within a period of fifteen working days from the date of submission of the application, or

(b) within a period of seven working days from the date of the receipt of the reply to the notice to show cause under sub-rule (3),

the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available to the registered person on the common portal.”

**Rules 21 and 21A of the Central Goods and Services Tax Rules, 2017****21. Registration to be cancelled in certain cases**

The registration granted to a person is liable to be cancelled, if the said person,-

- (a) does not conduct any business from the declared place of business; or*
- (b) issues invoice or bill without supply of goods or services for both] in violation of the provisions of the Act, or the rules made thereunder; or*
- (c) violates the provisions of section 171 of the Act or the rules made thereunder; or]*
- (d) violates the provision of rule 10A; or)*
- (e) avails input tax credit in violation of the provisions of section 16 of the Act or the rules made thereunder; or*
- (f) furnishes the details of outward supplies in FORM GSTR-1 under section 37 for one or more tax periods which is in excess of the outward supplies declared by him in his valid return under section 39 for the said tax periods;*
- (g) violates the provision of rule 86B; or]*
- (h) being a registered person required to file return under sub-section (1) of section 39 for each month or part thereof, has not furnished returns for a continuous period of six months;*
- (i) being a registered person required to file return under proviso to sub-section (1) of section 39 for each quarter or part thereof, has not furnished returns for a continuous period of two tax periods.]*

[21A. Suspension of registration

(1) Where a registered person has applied for cancellation of registration under rule 20, the registration shall be deemed to be suspended from the date of submission of the application or the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration under rule 22.



(2) Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29 or under rule 21, he may suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration under rule 22.

[(2A) Where,-

- (a) a comparison of the returns furnished by a registered person under section 39 with the details of outward supplies furnished in FORM GSTR-1 or the details of inward supplies derived based on the details of outward supplies furnished by his suppliers in their FORM GSTR-1, or such other analysis, as may be carried out on the recommendations of the Council, show that there are significant differences or anomalies indicating contravention of the provisions of the Act or the rules made thereunder, leading to cancellation of registration of the said person, or*
- (b) there is a contravention of the provisions of rule 10A by the registered person,*

the registration of such person shall be suspended and the said person shall be intimated in FORM GST REG-31, electronically, on the common portal, or by sending a communication to his e-mail address provided at the time of registration or as amended from time to time, highlighting the said differences, anomalies or non-compliances and asking him to explain, within a period of thirty days, as to why his registration shall be cancelled.]

(3) A registered person, whose registration has been suspended under sub- rule (1) or sub-rule (2) for sub-rule (2A)), shall not make any taxable supply during the period of suspension and shall not be required to furnish any return under section 39.



Explanation: For the purposes of this sub-rule, the expression "shall not make any taxable supply" shall mean that the registered person shall not issue a tax invoice and, accordingly, not charge tax on supplies made by him during the period of suspension.]

(3A) A registered person, whose registration has been suspended under sub-rule (2) or sub-rule (2A), shall not be granted any refund under section 54, during the period of suspension of his registration.]

(4) The suspension of registration under sub-rule (1) or sub-rule (2) [or sub-rule (2A)] shall be deemed to be revoked upon completion of the proceedings by the proper officer under rule 22 and such revocation shall be effective from the date on which the suspension had come into effect:

[PROVIDED that the suspension of registration under this rule may be revoked by the proper officer, anytime during the pendency of the proceedings for cancellation, if he deems fit:]

[PROVIDED FURTHER that where the registration has been suspended under sub-rule (2A) for contravention of the provisions contained in clause (b) or clause (c) of sub-section (2) of section 29 and the registration has not already been cancelled by the proper officer under rule 22, the suspension of registration shall be deemed to be revoked upon furnishing of all the pending returns:]

[PROVIDED ALSO that where the registration has been suspended under sub-rule (2A) for contravention of provisions of rule 10A and the registration has not already been cancelled by the proper officer under rule 22, the suspension of registration shall be deemed to be revoked upon compliance with the provisions of rule 10A.]

[(5) Where any order having the effect of revocation of suspension of registration has been passed, the provisions of clause (a) of sub-section (3) of section 31 and section 40 in



respect of the supplies made during the period of suspension and the procedure specified therein shall apply.”

Thus, at the stage of amending the registration, certificate of registration and for incorporating additional place of business, no proof or consent letter or NOC from the property owner is required to be produced.

18. We also noticed that as per Section 29(2) of the Act, there are 4 grounds for cancellation. As per the respondent, the petitioner has contravened Section 29(2)(a) of the GST Act inasmuch as it is alleged that registered person has contravened the provisions of the Act and the Rules made thereunder. However, we find that the contention raised by the respondents is wholly misconceived. There is no provision under Rule 8 of the GST Rules to submit NOC or consent letter from the property owner along with proof of address at the stage of adding additional place of business. In other words, it is only for the purpose of issuing the registration certificate for the principal place of business that the NOC or consent letter from the property owner along with proof of address is required to be produced. Once the same has been done and the registration certificate has been issued, merely for adding another place of business there is no requirement under Rule 19 of the GST Rules. Rule 8 of the GST Rules cannot be read contrary to Rule 19 of the GST Rules.

19. We also noticed that at the stage when the petitioner added another place of business, he was granted the amended registration. The petitioner has continued to do business from the additional place also. The owner of the property has not objected. It appears that dispute arose only in December 2023 whereafter the department has issued the process for cancellation and suspension of GST registration. We find that partisan approach has been adopted by the department. If there is a civil dispute



between the landlord and the tenant, the State Government or its authorities cannot be expected to take sides or initiate action to benefit one of the parties. Such an approach would amount to violation of Article 14 of the Constitution of India as everyone has to be treated equally by the State.

20. Even for initial registration, if a NOC has been given by the concerned landowner, it cannot be expected that the authorities would cancel a registration merely because subsequently there is a dispute between the landlord and the tenant (business entity). If such an interpretation is allowed, the business of any individual would be affected seriously and without even examining the issue on the civil side as to whether a tenant is required to vacate the premises or not, the landowner would be able to get the business closed by getting the GST registration cancelled. The interpretation if taken would violate Article 19(1)(g) of the Constitution of India and affect the rights of an individual to carry on business.

21. We notice that the petitioner is not said to have violated the GST provisions and is duly depositing his taxes. The grounds for cancellation cannot be added into the provisions of Section 29(2) of the GST Act as there is no inclusive clause to Section 29(2) of the GST Act.

22. Similar view has been taken by Allahabad High Court in **M.B. Trading; Shyam Sunder Sita Ram;** and **Om Trading**'s cases (supra).

23. We also find that there has been a complete non-application of mind while issuing order-cum-show cause notice dated 10.07.2024. The suspension of GST registration has been done for the entire places of business while the NOC demanded was only with respect to the additional place of business. As we have held that even for additional place of business NOC could not have been asked for by the respondents and the same cannot



be a ground for suspension/ cancellation of GST registration, therefore, the order dated 10.07.2024 cannot be allowed to be sustained.

24. Accordingly, the writ petition is allowed. The order-cum-show cause notice dated 10.07.2024 passed by the respondents is quashed and set aside. The GST registration is restored. The petitioner shall be allowed to continue operate his business.

25. All pending applications stand disposed of.

26. No costs.

(SANJEEV PRAKASH SHARMA)
JUDGE

23.10.2024
vs

(SANJAY VASHISTH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No