Pradnya Bhogale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 24 OF 2020

M/s. Tata Steel BSL Limited and Anr. ..Petitioner
vs.
The Union of India and Ors. ..Respondents

…........

Mr. Rahul Thakar I/b. Mr. Chandrakant B. Thakar for Petitioner.
Ms. Shruti Vyas, 'B' Panel Counsel for Respondent Nos.2 to 4.

…........

CORAM : NITIN JAMDAR &
M.S.KARNIK, JJ.

DATE : 15 JANUARY 2020

P.C.:-

By this Petition, the Petitioner challenges the order dated 18 March 2019 passed by the Deputy Commissioner of Sales Tax, Navi Mumbai. The primary contention of the Petitioner is that this order is in violation of the principles of natural justice. In view of this limited ambit of the Petition, only necessary facts are narrated.

2. The Petitioner is engaged in manufacturing activities and purchased natural gas/diesel amongst the other inputs prior to the introduction of the Goods and Services Tax Act, 2017. The Petitioner was purchasing natural gas by paying Central Sales

Tax. The Petitioner was registered under the Maharashtra Value Added Tax Act, 2002. A show cause notice was issued to the Petitioner for cancellation of registration under the Central Sales Tax Act, 1956. The Petitioner submitted its replies on 30 June 2018, 1 September 2018 and 15 January 2019 and placed various contentions on record including decisions of the Court. Thereafter, this Petitioner received an order of 18 March 2019 which is impugned herein. The order reads thus :-

> *"In exercise of the powers delegated to me under Section 7(5) of the Central Sales Tax Act, 1956, I hereby order that the Registration Certificate No.27040257267C dated Mar 18, 2019 granted to M/s BHUSHAN STEEL LIMITED for their place of business at : "NIFAN & SAVROLI, PO "T-SAJGAON, TALUKA -"HALAPUR, DIST-RAIGARH' RAIGAD State : MAHARASHTRA is cancelled with effect from Jul 1, 2017 on the grounds of <u>OTHER REASON, PLEASE SPECIFY</u>."*
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> *(emphasis supplied)*

3. We have heard Mr. Thakar, learned counsel for the Petitioner and Ms. Shruti Vyas, learned counsel for the Respondent Nos. 2 to 4. On the face of it, there are no reasons given in the order and the ground is "other reason, please specify".

4. Section 7 of the Central Sales Tax Act, 1956 deals with registration of dealers. Every dealers liable to pay tax under this

Act has to make an application for registration. The authority to whom the application is made, if satisfied that the application is in conformity with the provisions of the Act, registers such applicant and grants certificate of registration. Under Section 7, certificate of registration can be cancelled by the Authority on the application of the registered dealer or by the authority on the ground that the registered dealer has changed his name, place or nature of business or the class or classes of goods in which he carries on business or failed to comply with the directions issued under the provisions of Section 7 laying down conditions.

5. The Section 7(4)(a) and (b) of the Act deals with cancellation of registration by the authority, which reads thus :-

> *"(a) either on the application of the dealer to whom it has been granted or, where no such application has been made, after due notice to the dealer, be amended by the authority granting it if he is satisfied that by reason of the registered dealer having changed the name, place or nature of his business or the class or classes of goods in which he carries on business or for any other reason the certificate of registration granted to him requires to be amended; or*
>
> *(b) be cancelled by the authority granting it, where he is satisfied, after due notice to the dealer to whom it has been granted, that he has ceased to carry on business [or has ceased to exist or has failed without sufficient cause, to comply with an order under sub-section (3A) or with the provisions of sub-section*

(3C) or sub-section (3E) or has failed to pay any tax or penalty payable under this Act, or in the case of a dealer registered under sub-section (2) has ceased to be liable to pay tax under the sales tax of the appropriate State or for any other sufficient reason."

6. The authority cancelling the certificate has to be satisfied that cause exists for cancellation of registration and the cancellation is to be done after due notice to the dealer. Therefore, if the dealer submits explanation to the show cause notice, the authority, before proceeding to cancel the registration, will have to be satisfied that the explanation is not proper. This procedure envisages that reasons need to be given to cancel the registration. The registered dealer is entitled to know why his explanation was not found satisfactory.

7. The show cause notice issued to the Petitioner on the basis that the Petitioner had not effected sale of any of the goods specified therein in the year 2016-17. Thus Section 7(4) was invoked against the Petitioner. However, the impugned order refers to Section 7(5) of the Act. Section 7(5) of the Act deals with the contingency where registered dealer himself seeks cancellation of the registration. Petitioner has not made such application. Thus the order is unreasoned and without application of mind. The contention of the Petitioner of breach of principles of natural justice will have to be accepted. Since it is not clear as to

whether the Respondent-Authority was aware that the show cause notice was under Section 7(4), hearing be given to the Petitioner afresh.

9. Accordingly the order dated 18 March 2019 is quashed and set aside. Proceedings initiated by the Respondent No.4 pursuant to show cause notice dated 19 June 2018 stand restored. The Respondent No.4 will give hearing to the Petitioner and pass an appropriate order as per law.

10. Writ Petition is accordingly disposed of in above terms.

(M.S.KARNIK, J.) **(NITIN JAMDAR, J.)**