

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8474 OF 2022

DBS Tradelink and Advisors Pvt. Ltd. ... Petitioner

V/s.

The State of Maharashtra and anr. ... Respondents

**PRIYA
RAJESH
SOPARKAR**

Digitally signed by
PRIYA RAJESH
SOPARKAR

Date: 2022.07.27
10:23:42 +0530

Mr.Prakash Shah i/by M/s PDS Legal, Advocate for Petitioner.

Ms.S.D.Vyas, "B" Panel Counsel for Respondent No.1/State.

Mr.Jayant D. Patil, Joint Commissioner (Nodal) present.

Mr.Birajdar Arun, Joint Commissioner (Legal) present.

Ms.Yasmeen A. Molkar, Deputy Commissioner present.

Mr.Kurne, Deputy Commissioner (Legal) present.

Mr.Pradip Agre, Assistant Commissioner (Legal) present.

Ms.Kalpna Anil Patil, State Tax Officer present.

Ms.Manisha J. Tande, State Tax Officer present.

CORAM : K.R.SHRIRAM AND

A.S.DOCTOR, JJ.

DATE : JULY 20, 2022.

PC.:-

1. Petitioner has sought the following prayers:-

(a) this Hon'ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction under Article 226 of the Constitution of India calling for the records pertaining to the Petitioner's case and after going into the validity and legality thereof be pleased to quash and set aside (i) the Impugned Order dated 05.07.2022 passed by the Respondent No.2 (Exhibit "A") and (ii) the Impugned Show Cause Notice dated 21.04.2022 issued by the Respondent No.2 (Exhibit "B");

(b) this Hon'ble Court be pleased to issue a Writ of Mandamus or a writ in the nature of Mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India ordering and directing the Respondents to forthwith restore the Petitioner's registration no. 27AAECD7278GIZD under the Act."

2. Exhibit B is a copy of the show cause notice which is

incomprehensible. The same is scanned and reproduced below:-

Form GST REG-1731
(See Note 2(2)(b) in Section 2(94) of the CGST Act, 2017)

Reference Number: 25470-2207111 **Date:** 27/04/2022

To:
Registration Number (GSTIN/Unique ID): 27AABCT2722C2D
EBS TRADING AND ADVISORS PRIVATE LIMITED
OFFICE NO.106, VARDESHAN MARKET 1ST FLOOR, DATTI DAPS, SULTAN CHIT, VASHE, NAVI
MUMBAI-400103, Maharashtra-400103

Show Cause Notice for Cancellation of Registration

Whereas on the basis of information which has come to the notice, it appears that your registration is liable to be cancelled for the following reasons:

I. In case, Registration has been obtained by means of fraud, willful misstatement or suppression of facts.

You are hereby directed to furnish a copy to the office within seven working days from the date of receipt of this notice.

If you fail to furnish a reply within the specified date or fail to appear for personal hearing on the specified date and time, the case will be decided ex parte on the basis of available records and documents.

Please note that your registration stands suspended with effect from 28/04/2022.

For: Mahesh Datta
Date: 27/04/2022

Signature Verified
It has been signed by: 27AABCT2722C2D
GSTIN/Unique ID: 27AABCT2722C2D
Date: 27/04/2022 08:48:48

3. We do not know how a person is expected to respond to such a show cause notice. It says “it appears that registration is liable to be cancelled for the following reason: in case registration has been obtained by means of fraud, willful misstatement or suppression of facts.” The show cause notice does not even allege that petitioner has obtained registration by fraud or willful misstatement or suppression of facts. There is a digital signature

appended in the said document which says signature is not verified. Therefore, we have to take it to be an unsigned document. We fail to understand how it can be an official document.

4. The impugned order dated 21st April, 2022 also is incomprehensible. The same is as under :-

FORM GST REG-19
(See Rule 29(3))

Reference Number: ZA007220327097 Date: 05/05/2022

To:
PANTASHA TRADING PRIVATE LIMITED
708, 7th Floor, Ecosure, Infosys Park, Plot No. 104/1, Sector-12, Argya, Indira Nagar, Mayapuri, New Delhi-110028, 400773
GSTIN: UIN: 27AAAC002724B122
Registration Reference No. [REGN]: AA/2704221148884 Date: 01/05/2022

Order for Cancellation of Registration

This has reference to your reply dated 00/06/2022 in response to the notice to show cause dated 21/04/2022 wherein no cause in notice to show cause has been submitted, wherein the undersigned has examined your reply and submissions made at the time of issuing and in the order, your reply registered in Public is as appended for following reasons:

1. As per letter received from Dy. Commr. (WPT, GST & C. De.), National Commission for Women, New Delhi dated 10/03/2022 & Letter of Commission of GST AUTHORITY CENTRAL, NEW DELHI, Government of India, No. DNDL/VA/12811-1/171-490/1000000/2021-22 (New Delhi) dated 10/03/2022 & other verifications as given and with reference to the office of PCB & A/DG of the Tax, says:

The effective date of cancellation of your registration is 01/05/2022.
Determination of amount payable pursuant to cancellation:
Accordingly, the amount payable by you and the computation and basis thereof is as follows:
The amounts described as being payable above are without prejudice to any amount that may be found to be payable by you on balance of final result furnished by you.
You are required to pay the following amounts on or before 15/05/2022 failing which the amount will be recovered in accordance with the provisions of the Act and rules made thereunder.

Head	Central Tax	State Tax/UT Tax	Integration Tax	CGST
Tax	-	0	0	0
Interest	-	0	0	0
Penalty	-	0	0	0
Others	0	0	0	0
Total	0.0	0	0	0.0

Please acknowledge
Date: 22/05/2022

Digitally signed by: MANISHA JADDER TANDIL
SE/IN/16 TAX/IN/2021/22
CA/00/2022 07/05/2022 09:46:37

MANISHA JADDER TANDIL
Area Tax Officer
VARDHAPUR, JODI

5. It says this has reference to reply dated 3rd May, 2022 in response to the show cause notice dated 21st April, 2022. In the next line it says whereas

no reply to notice to show cause has been submitted and in the third line it says whereas the undersigned has examined your reply. It ends with the determination of amount payable pursuant to cancellation as zero.

6. When we observed that both documents indicate non-application of mind, Ms.Vyas states that the officer whose name appears, Kalpana Anil Patil is present in court and she has been informed that these were system generated documents. Ms. Vyas states that even Commissioner had personally informed her that these are system generated documents and the Commissioner has accelerated the problem to the central authority in Delhi. In fact, we would have expected respondents to show what the Hon'ble Gujarat High Court in the case of **Aggarwal Dyeing and Printing Works Vs. State of Gujarat and ors.**¹, had directed that the department shall issue notices and pass order in physical form containing all the necessary information and particulars. This judgment of Gujarat High Court has been delivered on 24th February, 2022. Still respondents including GST Network (GSTN) have not set their house in order.

7. In the circumstances, we have no option but to quash and set aside the impugned order. Even the show cause notice is hereby quashed and set aside. It is open to respondents to proceed further in accordance with law, but not in a digital form until the problem is resolved. Respondents shall issue notices and pass order in physical form unless the network problem is resolved.

8. Paragraph 18 of the petition reads as under :-

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“The Petitioner submits that the remedy by way of revocation under Section 30 of the CGST Act is neither alternate nor efficacious remedy against the impugned order dated 05.07.2022 passed by the Respondent No.2. It is submitted the impugned order has been passed in breach of principal of natural justice in as much as the letter relied upon by Respondent No.2 were never provided to the Petitioner. In view of peculiar facts of the present case, the Petitioner is entitled to invoke the jurisdiction of this Hon’ble Court under Article 226 of the Constitution of India. The impact of the impugned order is far reaching and the Petitioner is unable to carry on its business. The Petitioner submits that the reliefs prayed for herein if granted, would afford to them complete relief and justice to the Petitioner.”

9. The respondents shall restore petitioner’s registration forthwith, in any case before 4.30 p.m. today.
10. Petition disposed accordingly.

(A.S.DOCTOR, J.)

(K.R.SHRIRAM, J.)

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