IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.31287 of 2024 and
W.M.P.Nos.33927 and 33929 of 2024

Tvl.Blessing Traders,
Represented by its Proprietor Mrs.Thiligavathy,
244/2, Perumal Koil Street,
Chennai 600 052. ... Petitioner

Vs.

The Assistant Commissioner,
Chollavaram Assessment Circle,
Wall Tax Toad,
Chennai 3.
... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to calling for the records of the respondent in Form GST REG-17 Ref No.ZA330824125262U [GST IN: 33BJGPT1745P1ZO) Dated 23.08.2024 and quash the same being illegal, invalid without jurisdiction and violated the principles of natural justice. Consequently, direct the respondent to restore the petitioner's registration in GSTIN: 33BJGPT1745P1ZO.

For Petitioner : Mr.D.Vijayakumar

For Respondent : Ms.Amrita Dinakaran,
Government Advocate.

ORDER

The writ petition is filed challenging the impugned order cancelling the registration certificate on the premise that the impugned order suffers from gross violation of the principles of natural justice apart from being patently arbitrary.

2. The petitioner is a proprietary concern engaged in the business of trading in Aluminium scrap. The petitioner had obtained a registration certificate under the GST Act and was carrying on business. While so, a Show Cause Notice dated 23.08.2024 was issued, proposing cancellation of the registration certificate invoking Section 29(2)(e) of the GST Act, on the premise that the registration had been obtained by means of fraud, willful suppression of facts. The petitioner was directed to appear before the concerned authority on 02.09.2024 and was granted seven days time to file their objections. However, the respondent suspended the registration on 23.08.2024 i.e., on the same day the notice was issued and prior to the expiry of the time granted for filing objections. It is further submitted that the Show Cause Notice failed to provide any specific reasons or particulars for the

proposed cancellation, leaving the petitioner unaware of the case they were required to meet, except to state that the registration certificate has been obtained by means of fraud and wilful suppression.

3. The learned counsel for the petitioner would submit that the impugned proceedings commencing with the Show Cause Notice suffers from the vice of being manifestly arbitrary and in violation of the principles of natural justice inasmuch as no reasons have been assigned in the Show Cause Notice for cancellation of the registration certificate.

4. It is trite law that reasons are the links between the materials on which certain conclusions are based and the actual conclusions. They disclose how the mind is applied to the subject matter for a decision and reveals the rational nexus between the facts considered and the conclusions reached. Reasons being the harbinger between the mind of the maker of the order and the controversy in question, as well as the decision or conclusion arrived at, it excludes the chances of reaching an arbitrary, whimsical or capricious decision or conclusion. The reasons assure an inbuilt support to the conclusion and decision reached.

5. The requirement of giving reasons is based on sound principles and is intended to achieve the following objects and laudable purposes:

(i) In the first instance, the requirement to give reasons ensures the application of mind to the material, for how does one give reasons for an order unless one applies their mind to the material that is being considered.

(ii) Secondly, it incorporates a built-in safeguard against arbitrariness in the exercise of power. The requirement compels the authority to pause and articulate for itself why it is making the order. It feels that it is answerable for its order and the validity of the order would be tested at the touchstone of reasoning, rationality and logic.

(iii) Thirdly, it makes any further examination or review in appeal or other proceedings before courts more meaningful and effective. It enables all subsequent authorities dealing with the matter to know how the mind of the authority, which made the order, was functioning; what is it that appealed to it when it made the order and how it dealt with the objections as to why the order should or should not be made.

6. It may be relevant that the Hon'ble Supreme Court in the case of *Oryx Fisheries (P) Ltd. v. Union of India* reported in *(2010) 13 SCC 427*, after

referring to the case of *Kranti Associates (P) Ltd. Masood Ahmed Khan* reported in *(2010) 9 SCC (Civ) 852*, formulated the following principles on the relevance of reason:

> *"**39.** On the requirement of disclosing reasons by a quasi-judicial authority in support of its order, this Court has recently delivered a judgment in Kranti Associates (P) Ltd. v. Masood Ahmed Khan.*
>
> ***40.** In Kranti Associates this Court after considering various judgments formulated certain principles in SCC para 47 of the judgment which are set out below :*
>
> *"(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.*
>
> *(b) A quasi-judicial authority must record reasons in support of its conclusions.*
>
> *(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.*
>
> *(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.*
>
> *(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.*
>
> *(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.*
>
> *(g) Reasons facilitate the process of judicial review by superior courts.*
>
> *(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on*

relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny.

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence, wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, 'adequate and intelligent reasons must be given for judicial decisions'.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of 'due process".

7. Applying the above judgment of the Hon'ble Supreme Court to the impugned proceeding, this Court is of the view that the impugned proceeding suffer from the vice of being a non-speaking order. At this juncture, the learned counsel for the respondent would submit that they may be granted liberty to reconsider the issue afresh. In view thereof, the impugned proceeding dated 23.08.2024 is set aside, it is however open to the respondent to proceed in accordance with law.

8. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

05.11.2024

Neutral Citation : Yes / No
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To

The Assistant Commissioner,
Chollavaram Assessment Circle,
Wall Tax Toad,
Chennai 3.

MOHAMMED SHAFFIQ, J.

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