IN THE HIGHCOURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.32665 of 2024

M/s.Ananda Metals,
Rep. by its Proprietor,
Mr.Kamalesan Abraham,
No.3/4, 11th Avenue, Parvathi Amman Nagar,
Rediyar Colony, Kolathur,
Chennai, Tamil Nadu 600 099. ... Petitioner

Vs.

Commercial Tax Officer,
Commercial Tax Department,
No.5, First Floor,
High Court Colony Road,Main Street,
Thiru Nagar, Villivakkam, Chennai,
Tamil Nadu 600 049.
... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for recordsin impugned order dated 10.10.2024 made in Reference No.ZA331024053187W on the file of the respondent herein and quash the same and consequently direct the respondent to revoke the cancellation of the GST Registration of the petitioner.

For Petitioner	:	Mr.A.Abdul Hameed
For Respondent	:	Mr.V.Prashanth Kiran Government Advocate

ORDER

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

2. The petitioner is a proprietory concern carrying on business of trading of Aluminium scrap even prior to the introduction of GST Act. The petitioner had obtained a registration certificate under the GST Act and was carrying on business. While so a show cause notice dated 09.10.2024 was issued proposing to cancel the registration certificate invoking Section 29 (2)(e) on the premise that the registration has been obtained by means of fraud, wilful suppression of

facts. The petitioners were also directed to appear before the authority on 21.10.2024 while granting the petitioners 7 days time for filing their objections. However, the impugned order cancelling the registration certificate was issued the following day on 10.10.2024 i.e., even before the time granted for filing objection had expired. It is also submitted that commencing with the show cause notice and culminating in the order, no reasons were assigned for cancellation of registration certificate for the petitioner to even be aware of the case that he has to meet, except to state that the registration certificate has been obtained by means of fraud and wilful suppression.

3. The learned Senior Advocate for the petitioner, Mr.A.Abdul Hameed would submit that the impugned proceedings commencing with the show cause notice and culminating in the impugned order, suffers from the vice of being manifestly arbitrary and in violation of principles of natural justice inasmuch as no reasons have been assigned either in the show cause notice or in the impugned order for cancellation of 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 conclusions reached. Reasons being harbinger between the mind of the maker of the order to the controversy in question and the decision or conclusion arrived at, it excludes the chances to reach 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. The requirement is intended to achieve the following objects and laudable purposes:

(i) In the first instance, the requirement to give reasons ensures application of mind to the material, for, how does one give reasons for an order unless one applies one's mind to the material which it is called upon to consider.

(ii) Secondly, it incorporates a built-in safeguard against arbitrariness in the exercise of power. The requirement makes the authority pause for a moment and articulate for itself why it was making the order. It feels that it is answerable for its order and the validity of the order would be tested at the touch-stone 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 proceedings, this Court is of the view that the impugned proceedings suffers 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. The impugned order is set aside, it is however open to the respondents to proceed in accordance with law.

8. Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs.

05.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

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MOHAMMED SHAFFIQ, J.

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