IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.748 OF 2025

Digital Storm
(Prop: Lokhamsi Popat Darji) …Petitioner
Versus
Superintendent of CGST & Ors. ...Respondents

Mr. Devendra B. Harnesha a/w Devendra Jain for Petitioner.
Mr. Karan Adik i/b. Mr. Abhishek Mishra for Respondents.

CORAM : M.S. Sonak &
Advait M. Sethna, JJ.
DATED : 10 November 2025

Oral Order (Per : M.S. Sonak, J.):-

1. Heard Mr Harnesha, learned counsel for the Petitioner and Mr. Adik, learned counsel for the Respondents.

2. The Petitioner challenges the order dated 21 December 2023 by which his GST registration was cancelled. The Petitioner also challenges the order dated 21 February 2024 by which the Appellate Authority refused to condone the delay in filing Appeal against the order of 21 December 2023.

3. Mr Harnesha, learned counsel for the Petitioner submitted that this was a case of a gross breach of principles of natural justice and relies on the decision of this Court in

Saurabh Sahu v. State of Maharahstra[1] and of the Hon'ble Delhi High Court in the case of **Sanal P vs. Union of India**[2].

4. Mr Harnesha submits that in this case, the prescribed procedure was never followed, and the entire exercise violates natural justice. He pointed out that the visit note was never furnished to the Petitioner, and that the show cause notice was uploaded on the Website only, contrary to the statutory provisions regarding service.

5. Mr Harnesha submitted that the Appeal rejection order is also vitiated by perversity because the Appellate Authority has relied on the date of the original order rather than the date of its communication.

6. For the above reasons, Mr Harnesha submits that we should interfere and grant the Petitioner the reliefs as claimed for in the Petition.

7. Mr Adik has contested Mr Harnesha's arguments. He pointed out that this is a case where the Petitioner has been blowing hot and cold and has no qualms about making false and contradictory statements on affidavit to suit the occasion. He submitted that such a Petitioner should not be granted any relief under Article 226 of the Constitution of India. He urged the dismissal of its Petition with exemplary costs.

8. Rival contentions now fall for our determination.

9. At the outset, we note that this is indeed a case

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1 [2025] 176 taxmann.com 87 (Bom)

2 [2023] 156 taxmann.com 297 (Delhi)

where the Petitioner's conduct does not entitle the Petitioner to equitable relief under Article 226 of the Constitution of India.

10. The Respondents have recorded a visit note stating that the officials visited the Petitioner's alleged establishment at the address listed in the registration documents. During the visit, the officials found that the Petitioner, who is 75 years old, was present at the premises. After explaining the reason for the visit to the Petitioner, providing him with the necessary authorisation, and obtaining his endorsement, the note records the Petitioner stating that he had no business activities related to M/S. Digital Storm. He explained that he runs a small stationery shop for a livelihood and knows nothing about M/s. Digital Storm. He also mentioned that a relative of his might have used his Aadhar and photo for GST registration and provided the mobile number of that relative.

11. The GST officials contacted the person whose mobile number was provided by the Petitioner. The visit note records that the call was answered; however, as soon as questions about GST registration were raised, the called party hung up.

12. The Petitioner was given an opportunity to file a rejoinder. In the rejoinder, the Petitioner has made tall claims about the procedure being defective. He has also stated that he has been extremely transparent in his dealings with the GST authorities and that the statement attributed to him was incorrect. The Petitioner has gone to the extent of stating that he never made a statement regarding the non-existence of M/S. Digital Storm or that the Petitioner had availed ineligible Input Tax Credit (ITC) or passed on ITC without actual supply of goods or services. The affidavit is replete with statements such as the version of the department being misconceived, arbitrary, and lacking verification of facts or consideration of supporting documents.

13. However, apart from such tall statements, the rejoinder produces nothing by way of supporting documents. Mr Harnesha states that such an opportunity should have been given to the Petitioner during the registration cancellation proceedings. Though the record shows that more than ample opportunities were granted to the Petitioner, the Petitioner has bothered neither to produce any credible material before the Authorities nor before this Court. The Petitioner has simply signed this affidavit in rejoinder. There is not even any statement in this affidavit in rejoinder that the contents of such affidavit were read over and explained to him. This was necessary considering the defences raised by this very Petitioner in the adjudication proceedings.

14. The record shows that the Petitioner filed a detailed affidavit before the Commissioner (Appeals) to seek condonation of the delay. In paragraph 12 of this affidavit, the Petitioner admitted that in the month of May 2023, an investigation was carried out by the Anti-Evasion Department. He claims that this was without any prior notice to the Petitioner. He also claims to have received information about this investigation in the attached internal letter furnished to him, along with a show-cause notice. The Petitioner, in paragraph 12 of this affidavit, admitted to the following: -

> *"During the course of such mentioned procedure, I was not of stable mind at that time to give any statement."*

15. Mr. Adik pointed out that in the month of May 2023 itself, the Petitioner has pleaded in paragraph 9.5 of the Petition that he filed his GST returns. In the rejoinder, the Petitioner has time and again asserted that he was transparent in his dealings with the department and has fully cooperated with the department. The rejoinder takes no plea of unstable mind. Mr Harnesha explains that the defence of an unstable mind was raised to secure condonation of the delay. However, there is no explanation of how any contradictory defences of this nature can be raised in different proceedings.

16. The argument about breach of natural justice are quite misconceived. The record shows that more than ample opportunities were granted to the Petitioner. The Petitioner, without producing any credible material whatsoever and after giving detailed statements that he had no concern with M/s. Digital Storm, or that he was only carrying out a small stationery shop from the premises for which registration was obtained, now wants to raise a contradictory plea. Even such a plea is backed by no material. The learned counsel for the Petitioner almost suggests that there was no requirement to produce such material in these proceedings, and that, only if an appropriate show-cause notice were to be issued to the Petitioner, the Petitioner would have produced the same.

17. The principles of natural justice cannot be placed in a straitjacket. Some prejudice must be shown. In this case, the Petitioner, on a technical plea that has not even been made good, seeks to challenge the impugned orders/decisions. For this, the Petitioner has shown no qualms about making false and contradictory statements on oath. This Petition is, in fact, an abuse of the judicial process, and we agree with Mr Adik that the same warrants dismissal with exemplary costs.

18. The decisions relied upon by the learned counsel for the Petitioner have no application to the gross facts of the present case. This is also not a case where the registration has been cancelled on a ground not referred to in the show-cause notice. This is also not a case where the show-cause notice could be regarded as vague and therefore, warranting interference. The allegation in the show-cause notice was that the registration had been obtained through suppression, fraud, and misrepresentation. The material on record, *prima facie*, supports the allegations in the show-cause notice.

19. Even the Petitioner, apart from alleging a violation of natural justice, has failed to produce any credible material to show that he was indeed concerned with M/s. Digital Storm, or that he was carrying on the business which the certificate would claim, M/s. Digital Storm was carrying on. This, coupled with the clear statements on record by the Petitioner, shows that he has made desperate attempts to retract, to establish that there was no violation of natural justice.

20. There is no infirmity in the order dismissing Petitioner's delay condonation application. The affidavit accompanying the same was replete with false and contradictory statements. It is possible that the Petitioner merely lent his name and the stationery shop address [for monetary consideration] to some persons/relatives to set up an establishment to issue fake invoices and claim input tax credit.

21. We dismiss this Petition, but with costs of only Rs. 5,000/-. This is because, from the photographs produced before us and the visit note, we find that the Petitioner's stationery shop appears to be used by some parties to issue fake invoices. The Petitioner is 75 years old and, as per his own statement, is only involved in his small stationery store. Based on these prima facie circumstances, we are imposing costs of only Rs.5,000/-, which the Petitioner should pay within four weeks to the Government K.E.M. Hospital at Parel.

22. The Petitioner should also file an affidavit of compliance by giving a copy to the learned counsel for the Respondent.

(Advait M. Sethna, J) **(M.S. Sonak, J.)**