



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CWP-914-2023

Date of Decision : 05.02.2026

OPES CHEM CORP PRIVATE LTD

.... PETITIONER

V/S

STATE OF PUNJAB AND OTHERS

.... RESPONDENTS

CORAM : HON'BLE MRS. JUSTICE LISA GILL

HON'BLE MR. JUSTICE RAMESH CHANDER DIMRI

Present : Ms. Krati Singh, Advocate
Ms. Samiksha Uniyal, Advocate
Ms., Khushi Satviki, Advocate
for the petitioner.

Mr. Saurabh Kapoor, Addl.A.G, Punjab

LISA GILL, J. (Oral)

1. Prayer in this writ petition is for setting aside show cause notice dated 16.06.2021 (Annexure P-1) issued by respondent No.2 and orders dated 02.08.2021 and 09.11.2021 (Annexures P-2 and P-3) passed by respondents No.2 and 3 respectively. Further prayer is for directing respondent No.2 to restore GST registration of petitioner.

2. Learned counsel for petitioner vehemently argues that entire proceedings are gravely vitiated for the reason that show cause notice dated 16.06.2021 was issued for cancellation of petitioner's registration on the



premise that registration has been obtained by means of fraud, willful mis-statement or suppression of facts. However, order dated 16.06.2021 cancelling petitioner's registration was passed on the ground that the firm is involved in circular trading, No Cash Tax has been paid in Govt. Treasury at any stage, hence violated the provision of Section 16(2)(C) of GST Act 2017.

3. It is submitted that apart from the fact that order of cancellation has been passed on a premise which is not even mentioned in the show cause notice, there is no reason forthcoming for the decision which has been taken neither is there any advertence to any specific details whatsoever which the competent authority may have relied upon. It is further submitted that appellate authority also did not consider facts and circumstances as well as the specific issue raised before it and dismissed petitioner's appeal vide impugned order dated 09.11.2021. It was the specific grievance of petitioner that show cause notice dated 16.06.2021 was issued on a ground which was not the basis of cancellation of registration. The petitioner was never put to notice of the reason forming basis of order dated 09.11.2021. Appellate authority has not even considered and decided this issue but has proceeded to say that the reason/ground on which cancellation of registration has been carried out is one of the permissible grounds under Section 29(2) of the Act. Learned counsel for petitioner has relied upon decision dated 28.02.2023 passed in CWP No.19221 of 2021 by this High Court to submit that in identical circumstances, the writ petition was allowed, thus, prayed that this



writ petition be also allowed as prayed for.

4. Learned counsel for respondent has opposed the same while submitting that impugned order dated 02.08.2021 cancelling petitioner's registration has been correctly carried out. It is submitted that reply submitted by petitioner to the show cause notice was duly examined and was found unsatisfactory as evasion of GST was found to have been carried out by the petitioner in a planned manner. Dismissal of the writ petition is sought.

5. We heard learned counsel for parties and have perused the file carefully.

6. Factual position as above in respect to issuance of show cause notice dated 16.06.2021 for cancellation of petitioner's registration on the premise of it having been obtained by means of fraud willful mis-statement/suppression of facts and passing of order dated 16.06.2021 cancelling petitioner's registration on the ground of it being involved in circular trading etc. is a matter of record and not denied. Learned counsel for respondent is further unable to deny that the specific issue/ground raised in appeal in this regard has not been adjudicated upon though simply noticed. We also take note of the fact that an identical show cause notice dated 07.04.2021 was issued to a sister concern of petitioner, namely, M/s Modak Dyeing and Printing Private Limited. As in this matter, show cause notice therein was for cancellation of registration on the ground of registration being obtained by means of fraud willful mis-statement/suppression of facts and order for



cancellation of registration was ultimately passed on the ground that firm was involved in circular trading and purchases are from ingenuine dealers. This was challenged by M/s Modak Dyeing and Printing Private Limited by way of CWP No.19221 of 2021 which was allowed on 28.02.2023 as under:-

“In view of the above, present petition is allowed and impugned order dated 23.08.2021 (Annexure P-16) passed by the Appellate Authority-respondent No.3 is being set aside and liberty is granted to the respondent-Department to initiate fresh process of issuing show-cause notice after giving detailed reasons available with them so that the petitioner can file its reply and thereafter, appropriate speaking orders can be passed.”

7. Said order it is informed has attained finality and was not challenged by the department. Learned counsel for respondents is unable to deny that the controversy involved in the instant writ petition is identical to the one in CWP No.19221 of 2021. It is a settled position that a show cause notice is the foundation of further proceedings. An opportunity has to be afforded to the noticee to answer and show cause but in case a particular issue has not even been mentioned in the show cause notice, the assessee/noticee has no occasion to respond. Thus, to pass an order on the basis of a premise which has not even been put to the assessee in the show cause notice is clearly unjustified. Such an order is unsustainable.

8. Keeping in view facts and circumstances as above, present writ petition is allowed in the same terms as CWP No.19221 of 2021. Impugned orders are set aside and liberty is afforded to respondent-department to



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initiate fresh process as has been directed in CWP No.19221 of 2021 vide order dated 28.02.2023.

9. Pending miscellaneous application, if any, also stands disposed of.

(LISA GILL)
JUDGE

(RAMESH CHANDER DIMRI)
JUDGE

05.02.2026
anju

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No