HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY ,THE ELEVENTH DAY OF MARCH
TWO THOUSAND AND TWENTY FIVE

PRESENT

THE HONOURABLE THE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HONOURABLE SMT JUSTICE RENUKA YARA

WRIT PETITION NO: 26201 OF 2024

Between:

M/s. Al-Arif Milk Center, (36GSGPM1318M1ZF) represented by its Proprietor Sri. Abdul Jaber Mohammed, having situated at H No. 5-4-156, Rickshaw Colony, Pothireddipalle, Sangareddy, Telangana -502001

...PETITIONER

AND

1. The State of Telangana, represented by its Principal Secretary Revenue Department Commercial Taxes Telangana Secretariat Hyderabad.
2. The Commissioner of State Taxes, C.T Complex, Nampally, Hyderabad.
3. The Appellate Joint Commissioner (ST), Secunderabad Division Hyderabad, Office at 5th Floor, C.T Complex, Nampally, Hyderabad.
4. The Deputy State Tax Officer, Sangareddy-II Circle, Nizamabad Division.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to issue order or direction, more particularly one in the nature of the Writ of Mandamus declaring the action of Respondent No.3 in passing the order dated 09/08/2024 rejecting the Petitioners Appeal vide Order No. ZD360824027164F in confirming the order dated.24.04.2023 in reference No. ZA360423043804N passed by the Respondent No.4 in cancelling the GST Registration Certificate vide it's GSTIN No. 36GSGPM1318M1ZF with effect from 28.03.2023 as arbitrary, illegal, unjust, unreasonable and against the of principles of natural justice and violation of Article 14, 19, 21 of the Constitution of India and consequently set aside the Rejection Order dated 09/08/2024 rejecting the Petitioner's Appeal vide Order No. ZD360824027164F in confirming the order dated.24.04.2023 in reference No. ZA360423043804N passed by the

Respondent No.4 in cancelling the GST Registration Certificate vide its GSTIN No. 36GSGPM1318M1ZF with effect from 28/03/2023 in the interest of justice

IA NO: 1 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the Order dated 09.08.2024 passed by the Respondent No.3 thereby rejecting the Petitioner's Appeal vide Order No. ZD360824027164F in confirming the order dated.24.04.2023 in reference No. ZA360423043804N passed by the Respondent No.4 in cancelling the GST Registration Certificate vide its GSTIN No. 36GSGPM1318M1ZF with effect from 28.03.2023 in the interest of justice, in the interest of justice, pending disposal of the above said writ petition

Counsel for the Petitioner: SRI. VEDANTAM SRIRAMNIVAS FOR SRI V. RAGHUNADH

Counsel for the Respondents: SRI T. CHAITANYA KIRAN, AGP FOR

SRI SWAROOP OORILLA, SPECIAL GOVT PLEADER FOR STATE TAX

The Court made the following: ORDER

THE HON'BLE THE ACTING CHIEF JUSTICE SUJOY PAUL

AND

THE HON'BLE SMT. JUSTICE RENUKA YARA

WRIT PETITION No.26201 of 2024

ORDER: *(Per the Hon'ble the Acting Chief Justice Sujoy Paul)*

Sri Vedantam Sriramnivas, learned counsel appearing for Sri V.Raghunadh, learned counsel for the petitioner and Sri T. Chaitanya Kiran, learned Assistant Government Pleader representing Sri Swaroop Oorilla, learned Special Government Pleader for State Tax appearing for the respondents.

2. With the consent, finally heard.

3. In this writ petition the show cause notice for cancellation of registration of the petitioner dated 28.03.2023, the order dated 24.04.2023 cancelling the registration and the appellate order dated 09.08.2024 rejecting the petitioner's appeal are called in question.

4. The principal argument of the learned counsel for the petitioner is that the show cause notice is cryptic in nature and it does not contain any factual details and only pregnant with

reproduction of the provision on the strength of which action can be taken. Thus, the show cause notice is vague in nature. The order of cancellation dated 24.04.2023 is assailed by contending that in the first line, it is stated that the order was in reference to the petitioner's reply dated 13.04.2023 in response to the show cause notice dated 28.03.2023 and in the second line, it is mentioned that no reply was filed. Thus, there exists a procedural infirmity and violation of principles of natural justice. The appellate order is also under challenge.

5. Learned Special Government Pleader for State Tax submits that as per Section 107 of the Central Goods and Services Tax Act, 2017, the appeal must be filed within ninety days and the appellate authority can condone the delay for thirty more days, whereas in the present case, the petitioner filed appeal beyond four months. Thus, we do not find any error in the appellate order dated 09.08.2024.

6. However, the fact remains that the appellate authority has not decided the appeal on merits. The impugned show cause

notice certainly is cryptic in nature and does not contain necessary factual details.

7. In W.P.No.17400 of 2024, this Court at relevant paragraphs opined as under:

> "6. The singular reason assigned in the impugned notice dated 29.02.2024 reads asunder:
>
> > "1. Section 29(2)(e)-registration obtained by means of fraud, willful misrepresentation or suppression of facts".
>
> Apart from this bald statement, there exists nothing in the show cause notice which can throw light as to what is the nature of 'fraud' or 'willful misrepresentation' or 'suppression of fact' by the petitioner. Thus, show cause notice is cryptic and an example of non application of mind. In absence of factual basis and necessary details, notice becomes vulnerable.
>
> 7. This Court, recently, considered this aspect in ***T S R Exports (supra)*** and held as under:
>
> > *"9. We find subsistence in the argument of the learned counsel for the petitioner that the factual backdrop or the reason on the strength of which, conclusion of fraud or misstatement or suppression of facts was drawn is totally absent in the show cause notice. The show cause notice, in our considered opinion, should spell out the factual backdrop of breach, on the strength of which the department has rejected and concluded that Section 29 (2) (e) of the Act, can be invoked. If minimum factual backdrop and nature of breach is not mentioned with accuracy and precision, the petitioner was not in a position to file reply.*
> >
> > *10. The Apex Court expressed the need of issuance of such notice in Canara Bank vs. Debasis Das [2003] 4 SCC 557, at para No.15, which reads as under:*
> >
> > > *"15. ...Notice is the first limb of this principle. It must be precise and unambiguous. It should apprise the party determinatively of the case he has to meet. Time given for the purpose should be adequate so as to*

enable him to make his representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated. Thus, it is but essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play. The concept has gained significance and shades with time..."

11. In the Rajesh Kumar vs. CIT [2006] 157 Taxman 168/287 ITR 91/[2007] 2 SCC 181, the Apex Court at para No.61, held as under:

"61. ...The notice issued may only contain briefly the issues which the assessing officer thinks to be necessary. The reasons assigned therefor need not be detailed ones. But, that would not mean that the principles of justice are not required to be complied with. Only because certain consequences would ensue if the principles of natural justice are required to be complied with, the same by itself would not mean that the court would not insist on complying with the fundamental principles of law..."

12. This Court in Sri Avanthika Sai Venkata vs. Deputy State Tax Officer [2024] 159 taxmann.com 235/83 GSTL 311 (Telangana)/[W.P.No.1596 of 2024, dated 23-1-2024] and S.B. Traders vs. The Superintendent [2022] 145 taxmann.com 556/[2023] 96 GST 13/69GSTL 175 (Telangana)/[W.P.Nos.39498 and 39502 of 2022, dated 28-10-2022], interfered with the impugned proceedings and order therein because the reasons were not mentioned while initiating proceedings against the petitioners therein.

13. Needless to mention that the show cause notice dated 09.11.2023 became the foundation for issuance of orders dated 29.11.2023 and 23.02.2024, since the foundation cannot sustain judicial scrutiny, the entire edifice of orders passed thereupon are liable to be jettisoned".

(Emphasis Supplied)

8. Since the show-cause notice and suspension of registration is founded upon a cryptic notice dated 29.02.2024, both are set aside. On regular basis, we are painfully noticing this kind of notices, whereby, without assigning adequate reasons, the business of taxpayer is suddenly suspended. In absence of basic reasons available

> in the show-cause notice, the party aggrieved by it cannot even prefer an effective representation. We wonder how in such an insensitive and mechanical manner, the registrations are being suspended by issuing defective show-cause notices. Such orders certainly have an adverse impact on the livelihood of taxpayer and hits Article 21 of the Constitution. The authorities must remind themselves that the words 'LIFE' and 'FILE' contain same letters. Every file has a nexus with somebody's 'life' or liberty. Thus, the authorities should sensitize themselves and should not pass order/notice in the mechanical manner it is passed in the present case. We hope and trust that, henceforth, the authorities will take care of this aspect. Learned counsel for the petitioner insisted for imposition of costs. Faced with this, Sri P.Sri Harsha, learned Assistant Government Pleader, submits that he will appraise the authorities about observation of this Court so that henceforth such mistakes do not occur. In view of this assurance, in the instant case, we are not imposing any costs on the respondents.
>
> 9. Resultantly, the impugned show-cause notice dated 29.02.2024 and the order suspending the registration are set aside. Liberty is reserved to the respondents to proceed against the petitioner in accordance with law."

8. It was the minimum expectation from the authority who has issued the show cause notice to mention the factual details on the strength of which, violation is alleged and action is proposed to be taken. The authority has miserably failed to undertake the aforesaid exercise which runs contrary to principles of natural justice. The cancellation order dated 24.04.2023 is founded upon a defective show cause notice and is also pregnant with contradictory findings.

9. Thus, the impugned show cause notice dated 28.03.2023, the order dated 24.04.2023 and the appellate order dated 09.08.2024 are **set aside**. Liberty is reserved to the respondents to proceed against the petitioner in accordance with law. The limitation will not come in the way of the revenue while proceeding afresh against the petitioner.

10. Accordingly, the writ petition is **disposed of** without expressing any opinion on the merits of the case. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

SD/-P. CH. NAGABHUSHAMBA
ASSISTANT REGISTRAR

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SECTION OFFICER

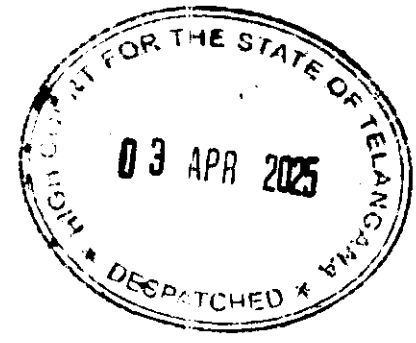
To,

1. The Principal Secretary Revenue Department Commercial Taxes Telangana Secretariat ,T.S.,Hyderabad.
2. The Commissioner of State Taxes, C.T Complex, Nampally, Hyderabad.
3. The Appellate Joint Commissioner (ST), Secunderabad Division Hyderabad, Office at 5th Floor, C.T Complex, Nampally, Hyderabad
4. The Deputy State Tax Officer, Sangareddy-II Circle, Nizamabad Division.
5. One CC to SRI. V. RAGHUNADH, Advocate [OPUC]
6. Two CCs to SPECIAL GOVERNMENT PLEADER FOR STATE TAX, High Court for the State of Telangana, at Hyderabad [OUT]
7. Two CD Copies

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HIGH COURT

DATED:11/03/2025



ORDER

WP.No.26201 of 2024

DISPOSING OF THE WRIT PETITION WITHOUT COSTS

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25/3/25

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