

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/SPECIAL CIVIL APPLICATION NO. 8153 of 2024**

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SHOKINBHAI GAPHURJI SANKHALA  
Versus  
COMMERCIAL TAX OFFICER & ORS.

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## Appearance:

AAYOG Y DOSHI(8519) for the Petitioner(s) No. 1  
MR ABHISHEKKUMAR C MALVI(9941) for the Petitioner(s) No. 1  
MR MAULIK VAKHARIYA(6628) for the Petitioner(s) No. 1  
TANAYA G SHAH(8430) for the Petitioner(s) No. 1  
MR CHINTAN DAVE for the Respondents

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**CORAM: HONOURABLE MR. JUSTICE BHARGAV D. KARIA**  
and  
**HONOURABLE MR. JUSTICE NIRAL R. MEHTA**

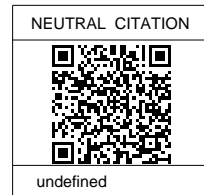
**Date : 03/07/2024**

**ORAL ORDER**

**(PER : HONOURABLE MR. JUSTICE BHARGAV D. KARIA)**

1. Heard learned advocate Mr.Aayog Doshi for the petitioner and learned Assistant Government Pleader Mr.Chintan Dave for the respondents.

2. By this petition under Articles 226 of the Constitution of India, the petitioner has challenged the show cause notice, the order for cancellation of the registration under the provisions of the Central / Gujarat Goods and Services Tax Act, 2017 (for short 'the GST Act') as well as the order of the appellate authority, whereby the orders of cancellation of registration passed by the Assessing Officer have been upheld, dismissing the appeal filed by the petitioner on the ground of limitation.



3. The petitioner has challenged the order of cancellation of registration on the ground that such order was passed without assigning any reasons for cancellation of registration of the petitioner.

4. The Co-ordinate Bench of this Court in case of **M/s. Aggrawal Dyeing & Printing vs. State of Gujarat** reported in **(2022) 137 Taxmann.com 332 (Guj.)** has issued the guidelines to the respondent-authorities as under:

*“18. Our final conclusion are as under:*

*18.1. Until the Department is able to develop and upload an appropriate software in the portal which would enable the Department to feed all the necessary information and material particulars in the show cause notice as well as in the final order of cancellation of registration that may be passed, the authority concerned shall issue an appropriate show cause notice containing all the necessary details and information in a physical form and forward the same to the dealer by RPAD. In the same manner, when it comes to passing the final order, the same shall also be passed in a physical form containing all the necessary information and particulars and shall be forwarded to the dealer by RPAD.*

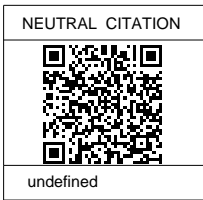
*18.2 Over a period of time, we have noticed in many matters that the impugned order cancelling the registration of a dealer travels beyond the scope of the show cause notice. Many times, the dealer is taken by surprise when he gets to read in the order that the authority has relied upon some inspection report or spot visit report etc. If the authority wants to rely upon any particular piece of evidence then it owes a duty to first bring it to the notice of the dealer so that if the dealer has anything to say in that regard, he may do so. Even if the authority wants to rely on any documentary evidence, the dealer should be first put to the notice of such documentary evidence and only thereafter, it may be looked into.*



*18.3 The aforesaid may appear to be very trivial issues but, it assumes importance in reducing the unnecessary litigation. Our concern is that on account of procedural lapses, the High Court should not be flooded with writ applications. The procedural aspects should be looked into by the authority concerned very scrupulously and diligently. Why unnecessarily give any dealer a chance to make a complaint before this Court when it could have been easily avoided by the department.*

*19. In the result, all the writ applications deserve to be allowed solely on the ground of violation of principles of natural justice and, accordingly, the writ applications are allowed. We quash and set aside the respective show cause notices of all the writ applications, seeking cancellation of registration as well as the consequential respective impugned orders cancelling registration with liberty to the respondent No. 2 to issue fresh notice with particulars of reasons incorporated with details and thereafter to provide reasonable opportunity of hearing to the writ applicants, and to pass appropriate speaking orders on merits. It is needless to mention that it shall be open for the writ applicants to respond to such notices by filing objections / reply with necessary documents, if relied upon. We clarify that we have not gone into merits of the case."*

5. In view of above decision of this Court, the impugned orders passed by the appellate authority as well as the Assessing Officer are hereby quashed and set aside and the matter is remanded back to the Assessing Officer to issue fresh show cause notice with particulars of reasons incorporated with details and thereafter to provide reasonable opportunity of hearing to the writ applicants, and to pass appropriate speaking orders on merits. The petitioner is at liberty to file objections / reply to the show cause notice which may be issued by the respondent authority with necessary documents.



6. We hereby also clarify that we have not gone into the merits of the case and the respondent authority shall pass appropriate order in accordance with law.

7. The petition is accordingly disposed of, with aforesaid directions.

**(BHARGAV D. KARIA, J)**

**(NIRAL R. MEHTA, J)**

V.J. SATWARA