

THE HONOURABLE SRI JUSTICE SUJOY PAUL

AND

THE HONOURABLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

WRIT PETITION No.17400 of 2024

ORDER (*per Hon'ble SP,J*)

Sri Goondla Venkateswarlu, learned counsel appears for the petitioner and Sri P. Sri Harsha, learned Assistant Government Pleader representing Sri Swaroop Oorilla, learned Special Government Pleader for State Tax, for the respondents.

2. With the consent, finally heard.
3. The singular pivotal question before us is whether the show cause notice for cancellation of registration and action of suspending the registration by order dated 29.02.2024 is justifiable and proper or not.
4. The learned counsel for the petitioner advanced singular point by contending that only so-called 'reason' shown in the impugned show-cause notice dated 29.02.2024 is mere reproduction of language of Section 29(2)(e) of the Central Goods and Service Tax Act, 2017 and does not contain necessary details on the strength of which such a 'conclusion' has been drawn. It is submitted that the notice is so cryptic that no one can file any effective reply. The business of petitioner is abruptly suspended which has a serious impact on his right to livelihood which is

guaranteed under Article 21 of the Constitution of India. Petitioner's repeated representations could not fetch any result. The action is an example of colorable exercise of power and highhandedness. He placed reliance on a recent order of this Court reported in ***T S R Exports v. Superintendent, GST***¹ and prayed for imposition of cost.

5. Sri P. Sri Harsha, learned Assistant Government Pleader, after obtaining instructions fairly submitted that show-cause notice is indeed cryptic and does not contain necessary details.

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:

¹ [2024] 162 taxmann.com 415 (Telangana)

“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.

10. The Writ Petition is allowed to the extent indicated above. No costs. Interlocutory applications, if any pending, shall also stand closed.

Sujoy Paul, J

Namavarapu Rajeshwar Rao, J

Date: 08.07.2024

Pvt/ssp