

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 5935 of 2022**

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SHAH INDUSTRIES THROUGH PROPRIETOR VISHAL HASTIMAL
SAKARIA
Versus
STATE OF GUJARAT

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Appearance:
MS MANVI DAMLE FOR NANAVATI & CO.(7105) for the Petitioner(s) No. 1
for the Respondent(s) No. 2,3
MR UTKARSH SHARMA ASSISTANT GOVERNMENT PLEADER/PP for the
Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE J.B.PARDIWALA
and
HONOURABLE MS. JUSTICE NISHA M. THAKORE

Date : 24/03/2022

ORAL ORDER
(PER : HONOURABLE MR. JUSTICE J.B.PARDIWALA)

1. Rule returnable forthwith. Mr. Utkarsh Sharma, the learned AGP waives service of Rule for and on behalf of respondents.
2. We have heard Ms. Manvi Damle, the learned counsel appearing for Nanavati & Co. for the writ applicant and Mr. Utkarsh Sharma, the learned AGP appearing for the respondents.
3. The writ applicant is a proprietor of a proprietary concern and he has been served with a show cause notice dated 02.11.2021 calling upon him to show cause as to why the GST registration should not be cancelled. The show cause notice is at page 14, Annexure P/1. The same read thus:

“Form GST REG-17/31

[See Rule 22(1)/sub-rule (2A) of rule21A]

Reference Number:ZA241121010311P

Date: 02/11/2022

To,
Registration Number(GSTIN/Unique ID): 24ACUPS2114B1ZU
VISHAL HASTIMAL SAKARIA
SHED NO.153-A, AADARSH GOLD INDUSTRIAL ESTATE,
Nr. ABHISHREE ESTATE, ODHAV,
Ahmedabad, Gujarat, 380415

Show Case Notes for Cancellation of Registration

Whereas on the basis of information which has come to my notice, it appears that your registration is liable to be cancelled for the following reasons:

1. As per negative spot visit report submitted by sti and attached Panchnama regarding spot visit.

You are hereby directed to furnish a reply to the notice within seven working days from the date of service of this notice.

If you fail to furnish a reply within the stipulated date or fail to appear for personal hearing on the appointed date and time, the case will be decided ex parte on the basis of available records and on merits.

Please note that your registration stands suspended with effect from 02/11/2021.

Place: Gujarat
Date: 02.11.2021

Signature valid
Digitally signed by DS GOODS
AND SERVICE TAX
NETWORK(4)
Date:2021.11.02.18:30:15 IST

Commercial Tax Officer
Ghatak – 7 (Ahmedabad), Range – 2, Division – 1, Gujarat”

4. The show cause notice is bereft on any material particulars or information. In the absence of any material particulars and the details, it is difficult for any individual to respond to such a vague show cause notice. Probably what the Authority is trying to convey is that the registration had been merely on paper and no actual business activity is found on the place of business, as the writ applicant – a registered person was not found at the place of business of writ applicant. If such are the allegations, it is expected of the Authority to furnish some details in this regard.

5. The impugned show cause notice has to be quashed and set aside and the same is accordingly quashed and set aside. If the Assistant Commissioner, Ghatak – 7 (Ahmadabad), Range – 2, Division – 1, Gujarat, is of the view that the writ applicant herein had obtained the GST registration by means of fraud, with the misstatement or suppression of facts, it shall be open for him to issue a fresh show cause notice in a physical form and such fresh show cause shall contain all necessary information and details for the purpose of effectively responding to the same.

With the aforesaid, this writ application stands disposed of. Rule is made absolute.

(J. B. PARDIWALA, J)

(NISHA M. THAKORE, J)

Y.N. VYAS

