

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

**TUESDAY, THE FOURTH 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: 4539 OF 2025

Between:

M/s. Al Adil Traders, Having address at 1-90/2, Hasnabad, Jagtial, Telanagana- 505 327 Represented by its Proprietor, Adiluddin Mohammad, aged about 36 years, S/o. Mohammad Muneeruddin, R/o. 3-5-30, Chinthakunta Wada, Jagtial, Karimnagar, Telanagana- 505 327

...PETITIONER

AND

1. Deputy State Tax Officer, Karimnagar STU, Karimnagar Division, D. No. 7-1-25, 1st Floor, T.N.G.O Building, Mankamma Thota, Karimnagar District - 505 001
2. The Joint Director, O/o. Directorate General of GST Intelligence, Hyderabad Zonal Unit, H. No. 1-63/42/12, Plot No. 211 and 212, Block-B, Kavuri Hills, Guttala Begumpet, Madhapur, Hyderabad - 500033.
3. State of Telangana, Represented by its Principal Secretary to Government, Revenue Department (Commercial Tax), Secretariat Complex, Hyderabad, Telangana.

...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 a Writ, Order, or direction more particularly one in the nature of a Writ of Mandamus, declaring the notice issued by Respondent No. 1 vide ref no. ZA361124000784V dated 01.11.2024 in Form GST REG- 17 and impugned order vide Order ref no ZA360125038750R in Form GST REG-19 dated 16.01.2025 as being void, arbitrary, illegal, without authority of law and without jurisdiction, violative of the Principles of Natural Justice apart from being violative of Articles 14, 19(1)(g), 21 and 265 of the Constitution of India, and to

consequently set aside the notice and Impugned Order by restoring the GST registration of the Petitioner.

IA NO: 1 OF 2025

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 Operation of Impugned Order ref no ZA360125038750R in Form GST REG-19 dated 16.01.2025 in the interest of Justice and equity as otherwise, the Petitioner will be put to irreparable loss and hardship.

**Counsel for the Petitioner: SRI M.UMA SHANKAR, REP. FOR
SRI V.VEERESHAM**

**Counsel for the Respondent No.1 & 3: SRI T.CHAITANYA KIRAN, AGP, REP.
FOR SRI SWAROOP OORILLA,
SPL GP FOR STATE TAX**

**Counsel for the Respondent No.2: M/s. PRAVALIKA, REP. FOR
SRI DOMINIC FERNANDES, Sr. SC FOR CBIC**

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.4539 of 2025

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

Sri M. Uma Shankar, learned counsel represents Sri V. Veeresham, learned counsel for the petitioner; Sri T. Chaitanya Kiran, learned Assistant Government Pleader representing Sri Swaroop Oorilla, learned Special Government Pleader for State Tax, for respondent Nos.1 and 3 and Ms. Pravalika, learned counsel representing Sri Dominic Fernandes, learned Senior Standing Counsel for CBIC, for respondent No.2.

2. With the consent, finally heard.

3. This petition filed under Article 226 of the Constitution assails the show cause notice dated 01.11.2024 whereby the petitioner's registration was suspended with effect from 01.11.2024. The petitioner is also aggrieved by the final order of cancellation of registration dated 16.01.2025.

4. The sheet-anchor argument of learned counsel for the petitioner is that as per the prescribed Form GST REG-17, the

Department is under a statutory obligation to assign reasons on which show cause notice is based. The reasons mentioned in the impugned show cause notice are as under:

1. Rule 21(e)-person avails ITC in violation of the provisions of section 16 of the Act or the rules made thereunder
2. Rule 21(b)-person issues invoice or bill without supply of goods or services or both in violation of the provisions of the Act, or the rules made thereunder
3. Rule 21(a)-person does not conduct any business from declared place of business
4. Section 29(e)-registration obtained by means of fraud, willful misstatement or suppression of facts.

5. It is submitted that the aforesaid averments/contents are only alleged violation of Rules but does not contain any factual details or reasons therefor. This Court in W.P.No.20080 of 2024 has disapproved such notice and set aside the same. For the same reason, interference may be made.

6. The prayer is opposed by learned counsel for the respondents and it is submitted that the petitioner filed reply to the impugned show cause notice and thereafter, impugned final order was passed which is in accordance with law.

7. We have heard learned counsel for the parties at length.

8. The reproduced portion of impugned show cause notice shows that the said contents are allegations relating to breach of

certain Rules but the impugned show cause notice nowhere provides the factual foundation on the strength of which, the said Rules were allegedly breached by the petitioner. There exists attachment to the show cause notice but the reasons are required to be mentioned in the show cause notice itself. The assessee is not expected to travel through a document which is annexed with the show cause notice and which is an internal correspondence between two departmental authorities and then try to gather what could be the allegation against him. The show cause notice should be specific and should be pregnant with necessary details. In absence thereof, this Court in aforesaid W.P.No.20080 of 2024 interfered with a show cause notice by recording following findings:

"6. We have previously interfered with similar notices which were not pregnant with necessary factual details and descriptions. We find substance in the argument of learned counsel for the petitioner that such a notice runs contrary to principles of natural justice and deprives the assessee to file an effective reply to the show cause notice. In previous occasion, in W.P.No.17400 of 2024, this Court has held as under:

"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."

7. In view of aforesaid, the aforesaid impugned show cause notice is liable to be interfered with because it does not disclose minimum/elementary factual details on the basis of which power under Section 29 of the Act is invoked. Mere reproduction of offending clause or enabling provision cannot be a reason to give stamp of approval to a show cause notice which lacks minimum essential details.

8. Resultantly, the impugned show cause notice dated 24.05.2024 is set aside. Liberty is reserved to the respondents to proceed against the petitioner in accordance with law. Sri Swaroop Oorilla, learned Special Government Pleader for State Tax, assured the Court that this order will be brought to the notice of the concerned authorities and he will appraise them to eschew the practice of issuing such cryptic notice.

9. Accordingly, this Writ Petition is allowed. No costs."

9. In the instant case, the impugned show cause notice, in our opinion, runs contrary to the principles laid down by this Court in aforesaid W.P.No.20080 of 2024. The departmental

authorities must understand the difference between the 'reasons' and 'conclusions'. Under the head 'reasons', infact departmental authorities have recorded their conclusion that the petitioner has breached certain Rules mentioned hereinabove. On what basis and on what factual details such violation has taken place is not spelled out. Thus, the impugned show cause notice which became foundation of issuance of impugned final order is bad in law. Since the foundation i.e., impugned show cause notice is cryptic and bad in law, the edifies standing of said cryptic notice by impugned final order also cannot sustain judicial scrutiny.

10. The decision making process adopted by the respondents and the impugned show cause notice cannot sustain judicial scrutiny.

11. Resultantly, the impugned show cause notice dated 01.11.2024 and consequential final order dated 16.01.2025 are **set aside**. At the cost of repetition, it may be noticed that if the show cause notice itself is cryptic, it cannot gain life if certain reasons are assigned in the final order. Consequent upon setting aside of impugned show cause notice and final order on technical grounds i.e., violation of principles of natural justice,

the respondents deserve liberty to proceed against the petitioner in accordance with law afresh.

12. Accordingly, the Writ Petition is **allowed** to the extent indicated above. It is made clear that this Court has not expressed any opinion on merits of the case. No costs.

Interlocutory applications, if any pending, shall also stand closed.

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SD/-V.KAVITHA
ASSISTANT REGISTRAR

SECTION OFFICER

To,

1. The Deputy State Tax Officer, Karimnagar STU, Karimnagar Division, D. No. 7-1-25, 1st Floor, T.N.G.O Building, Mankamma Thota, Karimnagar District - 505 001
2. The Joint Director, O/o. Directorate General of GST Intelligence, Hyderabad Zonal Unit, H. No. 1-63/42/12, Plot No. 211 and 212, Block-B, Kavuri Hills, Guttala Begumpet, Madhapur, Hyderabad - 500033.
3. The Principal Secretary to Government, Revenue Department (Commercial Tax), Secretariat Complex, Hyderabad, Telangana.
4. One CC to SRI V.VEERESHAM, Advocate [OPUC]
5. One CC to SRI DOMINIC FERNANDES, Sr. SC FOR CBIC [OPUC]
6. Two CCs to SRI SWAROOP OORILLA, SPL GP FOR STATE TAX, High Court for the State of Telangana at Hyderabad [OUT]
7. Two CD Copies

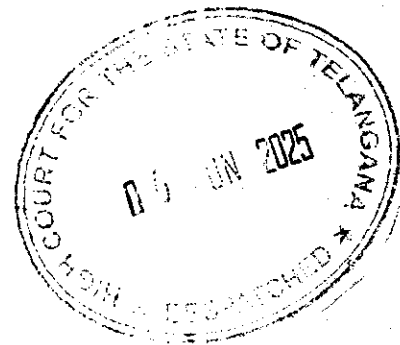
BSR
GJP

HIGH COURT

DATED: 04/03/2025

ORDER

WP.No.4539 of 2025



**ALLOWING THE WRIT PETITION,
WITHOUT COSTS**

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21/09/25
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