

(2025) 07 BOM CK 0228
In the Bombay High Court
Case No : Writ Petition No. 8537 Of 2025

Saurabh Sahu

APPELLANT

Vs

State of Maharashtra through the Finance Secretary

RESPONDENT

Date of Decision : 01-07-2025

Acts Referred:

Registration Act, 1908 — Section 29(2)(e)

Citation : (2025) 07 BOM CK 0228

Hon'ble Judges : M.S. Sonak, J; Jitendra Jain, J

Bench : Division Bench

Advocate : Nirmal Pagaria, Shruti D. Vyas, Aditya R. Deolekar,

Final Decision : Disposed Of

Judgement

M. S. Sonak, J

Heard learned counsel for the parties.

1. Rule. The rule is made returnable immediately, at the request and with the consent of the learned counsel for the parties.

2. The challenge in this Petition is to the order dated 07 July 2023, for cancellation of the Petitioner's registration under the Maharashtra Goods and Services Tax Act, 2017 ("the MGST Act").

4. The impugned order was preceded by a show cause notice dated 12 June 2023, which is annexed at Exh-B, page 21 of the Petition.

5. The contents of the show cause notice dated 12 June 2023 at Exh-B are transcribed below for the convenience of reference.

Form GST REG-17

[See Rule 22(1)/ sub-rule (2A) of rule 21A]

Reference Number : ZA270623104384Q

Date : 12/06/2023

To

Registration Number (GSTIN/Unique ID): 27JPLPS2317B1ZS

SAURABH SAHU

206, VASUDEV DHAM CHS LTD, 150 FT ROAD, Mira Bhyandar, thane, Maharashtra, 401101

Show Cause Notice 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 Section 29(2)(e)-registration obtained by means of fraud, wilful misstatement or suppression of facts.

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 12/06/2023

Place : Maharashtra

Date : 12/06/2023

SUDHAKAR KRISHNA TAMBE

State Tax Officer

MANDVI_710:MANDVI:MUMBAI_SOUTH_EAST:Maharashtra

6. The above show cause notice is entirely vague and bereft of any particulars. The show cause notice refers to Section 29(2)(e) and states that registration was obtained by means of fraud, willful misstatement or suppression of facts. Although a time limit was granted to file a reply and the Petitioner was informed that if he failed to appear for a personal hearing on the appointed date and time, the case would be decided ex parte, the show cause notice at Exh-B does not specify this appointed date or time.

7. Merely quoting a Section and alleging that registration has been obtained through fraud, willful misstatement, or suppression of facts in a show cause notice is never enough. The noticee must be given an idea of what the alleged fraud, misstatement, or suppression of facts was. Only then will the noticee be able to understand the allegations against them and respond effectively.

8. The Respondents, it appears, are also aware that this show cause notice, which is now exhibited at Exh-B (page 21), was entirely vague. Therefore, Ms Vyas, yesterday, produced before us what was meant to be an attachment to this show cause notice. This attachment contained the details of the allegations. She contended that this attachment, which accompanied the show cause notice at Exh-B, was suppressed by the Petitioner.

9. We were quite impressed with the above submission because it was the petitioner's duty to place on record the complete copy of the show cause notice, not just its truncated version. Therefore, we adjourned the matter to today to enable the learned counsel for the Petitioner to obtain instructions.

10. Learned counsel for the Petitioner, on instructions, states that on the portal through which the show cause notice dated 12 June 2023 (Exh-B) was served upon the Petitioner, there was no such attachment as was sought to be produced by Ms Vyas. He also presented screenshots of the portal to demonstrate that there was no such attachment. Ms Vyas, on instructions, frankly admitted that there might have been some technical glitches, which could have prevented the attachment from reflecting on the portal.

11. Thus, all that the Petitioner received was the show cause notice dated 12 June 2023, which is now enclosed with the Petition at Exh-B (page 21). As noted above, this show cause notice is completely vague, and based on this, the Petitioner could not have filed any effective reply or even known what the precise charge against him was. Any action based upon such a vague show cause notice cannot be sustained because the same would be a product of a violation of principles of natural justice. On this short ground, the impugned order dated 07 July 2023 is liable to be set aside.

12. Ms Vyas did contend that though the impugned order was made on 07 July 2023, this Petition has been instituted only on 22 April 2025, and there is no explanation for the delay. She also contended that there is a provision for seeking a revocation of such an order or, in any event, to appeal against such an order. She submitted that none of the alternate remedies have been invoked by the Petitioner. Therefore, on the grounds of delay and availability of an alternate remedy, she urged that this Petition be not entertained.

13. We have considered Ms Vyas's submission regarding delay and alternative remedies. Though this Petition could have been filed earlier, it is not as if the Petitioner has gained anything by filing this Petition marginally late. In fact, it is the Petitioner who has suffered during this period. Besides, there is a difference between delay and laches. Laches is not merely the passage of time. Relief is denied on the ground of laches because, in the meantime, some parallel rights may have crystallized in the opposite party. This is not the position in the present case.

14. Regarding the alternative remedy, we typically entertain objections and direct parties to pursue the statutory remedies available. However, it is well established

that in cases of a gross breach of principles of natural justice, petitioners should not be relegated to the alternative remedies. Our concern is not primarily with the final decision but with the fairness of the decision-making process itself. Any process that is not underpinned by natural justice renders the final decision susceptible to challenge. This stands as a notable exception to the rule of not entertaining petitions where effective alternative remedies are available.

15. In almost identical circumstances, we allowed Writ Petition No. 7126 of 2025 (Manek Steel LLP V/s. Union of India & Ors.) by our order dated June 30, 2025. Even in that case, the show cause notice was almost identical to the one in the present case. On the grounds of patent vagueness, we quashed the impugned action. The learned counsel for the Respondent, in fact, very fairly consented to such quashing but only prayed that liberty be granted for fresh action after service of a fresh show-cause notice.

16. For all the above reasons, we allow this Petition and set aside the impugned order dated 07 July 2023. However, since we have interfered with the order only on the ground of breach of the principles of natural justice, we clarify that the Respondents would have the liberty to issue a fresh show cause notice to the Petitioner and dispose it of in accordance with law, following this time the principles of natural justice and fair play.

17. Ms Vyas states that within two weeks of uploading this order, a fresh show-cause notice with particulars will be issued to the Petitioner. Learned counsel for the Petitioner states that within two weeks of the receipt of the show cause notice, the Petitioner will file his response.

18. The learned counsel for the Petitioner, on instructions, states that the show cause notice can be served to the Petitioner by e-mail at the following e-mail ID, in addition to service through the portal. Ms Vyas states that this would be done.

E-mail ID – sahusourabh113@gmail.com

19. All contentions of all parties on the merits are left open because we have not examined the rival contentions relating to the cancellation of registration on their merits.

20. The Rule is made absolute in the above terms without any order as to costs. All concerned are to act on an authenticated copy of this order.