

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 4340 of 2022

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M/S DILIPKUMAR CHANDULAL & 1 other(s)
 Versus
 STATE OF GUJARAT & 1 other(s)

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Appearance:

UCHIT N SHETH(7336) for the Petitioner(s) No. 1,2
 MR UTKARSH SHARMA, AGP for the Respondent(s) No. 1,2

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

Date : 23/03/2022

ORAL ORDER

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

1. By this writ application under Article 226 of the Constitution of India, the writ applicants have prayed for the following reliefs:

"A. This Hon'ble Court may be pleased to issue a writ of certiorari or writ in the nature of certiorari or any other appropriate writ or order quashing and setting aside order cancelling registration certificate of the Petitioners (annexed at Annexure C) may please be quashed and set aside and the registration certificate of the Petitioners may please be ordered to be restored for the period 1.4.2018 to 31.3.2019;

B. In the alternative this Hon'ble Court may be pleased to issue a writ of mandamus or writ in the mandamus or any other appropriate writ or order directing the Respondents to refund the amount of tax paid by the Petitioners as a result of the glitch in the GST portal allowing such payment of tax despite the Petitioners having been deregistered and a fresh registration certificate may be issued to the Petitioners for the period from 1.4.2018 and 31.3.2019 under the aegis of which tax may again be deposited by the Petitioners;

C. Pending notice, admission and final hearing of this petition, this Hon'ble Court may be pleased to direct the Respondents to forthwith restore registration certificate of the Petitioners for the

period from 1.4.2018 to 31.3.2019;

D. Ex parte ad interim relief in terms of prayer C may kindly be granted;

E. Such further relief(s) as deemed fit in the facts and circumstances of the case may kindly be granted in the interest of justice for which act of kindness your petitioners shall forever pray."

2. On 03.03.2022, this Court passed the following order:

"1. We have heard Mr. Uchit N. Sheth, the learned counsel appearing for the writ applicants and Mr. Kathiriya, the learned AGP appearing for the respondents.

2. It appears that the writ applicants are here before this Court as their GST registration has been cancelled. The facts of this case are quite peculiar. The Chartered Accountant of the writ applicants wanted the HUF registration to be cancelled. Instead of inserting the registration number of the HUF, inadvertently, the CA inserted the registration number of the proprietorship. In such circumstances, the registration of the proprietary firm under the GST got cancelled. However, despite the fact that the registration of the firm got cancelled, the returns filed by the writ applicants were being accepted.

3. Let Notice be issued to the respondents, returnable on 23.03.2022. Mr. Kathiriya, the learned AGP waives service of notice for and on behalf of the respondents. Mr. Kathiriya, has already been furnished with one set of entire paper book.

4. Mr. Kathiriya, shall take the necessary instructions in the matter so that on the returnable date, we can dispose of this writ application with a short order.

5. On the returnable date, notify this matter on top of the Board."

3. We have heard Mr. Uchit Sheth, the learned counsel appearing for the writ applicants and Mr. Utkarsh Sharma, the learned AGP appearing for the respondents.

4. The facts recorded by this Court vide order dated 03.03.2022 referred to above speaks for itself. It was an inadvertent mistake committed by the Chartered Accountant which led to cancellation of the registration number of the proprietary ship.

5. We are of the view that the respondent No.2 should immediately look into the matter and see to it that the order cancelling the registration is recalled and the original registration under the CGST is restored. For a mistake said to have been committed by the Chartered Accountant, the dealer under the Act should not be made to pay a very heavy price like cancellation of the registration itself.

6. Let the needful be done within a period of eight weeks from today without fail.

7. The writ application stands disposed of accordingly. Direct service is permitted.

8. One copy of this order shall be furnished to Mr. Utkarsh Sharma, the learned AGP, at the earliest for its onward communication.

9. Mr. Sharma, the learned AGP is requested to speak to the authority concerned to recall the order cancelling the registration and restore the original registration.

(J. B. PARDIWALA, J)

(NISHA M. THAKORE,J)

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