

# TAX INFO

*Dated 19/09/2022*

Latest update on GST Law: **Vague SCN for Cancellation of GST Registration & subsequent cancellation of RC is not sustainable** as given in judgement by **Bombay High Court**.

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<b>Name of Petitioner</b>	DBS Tradelink and Advisors Pvt. Ltd.
<b>Name of Respondent</b>	The State of Maharashtra
<b>Court</b>	BombayHigh Court
<b>Date of Judgement</b>	20.07.2022
<b>Appeal No.</b>	WRIT PETITION NO.8474 OF 2022

## **Brief Facts of the Case Law:**

The incomprehensible SCN was issued on the petitioner. The show cause notice says "it appears that registration is liable to be cancelled for the following reason: **"in case registration has been obtained by means of fraud, wilful misstatement or suppression of facts."** The SCN does not even allege that petitioner has obtained registration by fraud or wilful misstatement or suppression of facts. There is a digital signature appended in the said document which says signature is not verified. Therefore, it's an unsigned document and cannot be considered as an official document. Thereafter, the impugned order dated 21st April, 2022 was issued which is also incomprehensible. It says this has reference to reply dated 3rd May, 2022 in response to the show cause notice dated 21st April, 2022. In the next line it says whereas no reply to notice to show cause has been submitted and in the third line it says whereas the undersigned has examined your reply. It ends with the determination of amount payable pursuant to cancellation as zero. Thus, such a vague order indicates non-application of mind. The officer whose name appears on the order, being present in court informed that these were system generated documents.

## **Decision of the Court:**

The Department would have expected to show what the **Hon'ble Gujarat High Court in the case of Aggarwal Dyeing and Printing Works Vs. State of Gujarat** had directed that the department shall issue notices and pass order in physical form containing all the necessary information and particulars. This judgment of Gujarat High Court has been delivered on 24th February, 2022. Still Department including GST Network (GSTN) have not set their house in order.

The impugned order was set aside and even the show cause notice was quashed and set aside. It is open to Department to proceed further in accordance with law, but not in a digital form until the problem is resolved. Department shall issue notices and pass order in physical form unless the network problem is resolved.

The Court directed that the Department shall restore petitioner's registration on the very same day of the judgment.

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