

Chief Justice's Court

Case :- WRIT TAX No. - 1285 of 2023

Petitioner :- M/S Moheed Khan Contractor

Respondent :- The State Of U.P. And Another

Counsel for Petitioner :- Vishwjit

Counsel for Respondent :- C.S.C.

Hon'ble Pritinker Diwaker,Chief Justice

Hon'ble Ashutosh Srivastava,J.

Grievance of the petitioner is that the impugned order dated 17.08.2022 under Section 74 (09) of CGST Act, 2017 has been passed for Tax period of March 2019 (2018-19), without affording any opportunity of hearing to the petitioner and even without mentioning the date of granting personal hearing.

Learned counsel for the petitioner submits that purpose of filing this petition would be served if order impugned is quashed with a direction to the authority concerned to pass fresh order after giving opportunity of hearing to the petitioner.

Learned counsel appearing for the revenue submits that even if the opportunity of personal hearing has not been given to the petitioner, he could have filed reply to the show cause notice, which he has not done, therefore, the order impugned may not be quashed.

A bare perusal of the impugned order reflects that no date was mentioned for hearing and the petitioner was not afforded any opportunity of personal hearing.

Considering the facts and circumstances of the case, the order impugned dated 17.08.2022 is set aside with a direction to the petitioner to file his reply to the show cause notice within two weeks from today and shall appear before respondent no. 2 on 11.12.2023. On the said date, the authority will hear the petitioner and pass appropriate order.

The writ petition is accordingly ***disposed of.***

It is made clear that we have not expressed any opinion on the merits of the case and the authority concerned to pass fresh order strictly in accordance with law.

Order Date :- 7.11.2023

Deepak/

(Ashutosh Srivastava,J.)

(Pritinker Diwaker,CJ.)