

**Court No. - 3**

**Case :-** WRIT TAX No. - 1316 of 2023

**Petitioner :-** Gopal Traders A 550 Brahmpura

**Respondent :-** State Of U.P. And 2 Others

**Counsel for Petitioner :-** Mohit Behari Mathur

**Counsel for Respondent :-** C.S.C.

**Hon'ble Siddhartha Varma,J.**

**Hon'ble Syed Qamar Hasan Rizvi,J.**

1. When a notice was issued under section 74 of the U.P. Goods and Service Tax Act, 2017, the notice indicated that the reply had to be submitted by 9.9.2023 and the personal hearing was to be given on 25.8.2023. The petitioner could not reply to the notice as certain relevant documents could not be obtained by the petitioner from the department. From the notice, we also find that even before the reply was to be submitted, a personal hearing was fixed. The petitioner aggrieved by the order dated 18.10.2023 has approached this Court.

2. Learned counsel for the petitioner states that the order was passed in gross violation of the principles of natural justice.

3. Learned counsel appearing for the Department Sri Ankur Agarwal states that the petitioner, if had not availed the opportunity of filing a reply, the Department would definitely provide a further opportunity if this Court directs.

4. Upon the perusal of the order impugned and after hearing learned counsel for the parties, we are of the view that the petitioner was not provided the opportunity to submit the reply as the notice itself was defective.

5. Under such circumstances, the notice 9.8.2023 and the subsequent order dated 18.10.2023 both are quashed and the matter is being remitted back to the Authorities concerned for a fresh consideration of the case. The Authorities may issue a fresh notice to which the petitioner may file a reply and thereafter suitable orders may be passed. Needless to mention that a personal hearing would also be provided to the petitioner.

6. The writ petition is, accordingly, allowed to the extent indicated above.

**Order Date :- 8.12.2023**

GS

(Syed Qamar Hasan Rizvi, J.)      (Siddhartha Varma, J.)