

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
WRIT PETITION NO.7762 of 2015

Matrix Publicities and Media (I) Pvt.Ltd

.. Petitioner

vs

The Union of India & ors ...

.. Respondents

Mr.Prakash Shah with Mr.Jas Sanghavi i/b
M/s PDS Legal Advocates for Petitioner
Mr.Pradeep S.Jetley a/w Mr.Jitendra Mishra
Advocates for Respondens

...
CORAM: S.C.DHARMADHIKARI &
G.S.KULKARNI, JJ
DATE: 17TH AUGUST, 2015

P.C.

1. When this Petition was placed before us Mr.Jetley learned counsel appearing for the respondents raised a preliminary objection to the maintainability of the Petition on the ground that the orders-in-original dated 22nd June 2015 are appealable and there is a remedy of Appeal against such an order. Therefore, this Writ Petition should not be entertained.

2. Mr.Shah learned counsel appearing on behalf of the Petitioner responded to this and submitted that this objection may not be maintained in the facts and circumstances peculiar to this case, when the respondents have passed an order on merits of the Applications for refund but, without affording any

opportunity of oral hearing to the Petitioners. When an Application was made for refund on-line and it was received thereafter it was incumbent on the respondents and particularly the Officer to whom the matter is assigned to communicate the date of hearing and by a prior notice. Such a communication was never addressed and without any prior hearing, the Petitioner's Application for refund has been dismissed by four orders and of the same date. There is thus, gross violation of the principles of natural justice and resultant prejudice established by above.

3. Mr. Jetley learned counsel appearing on behalf of the respondents could not dispute that no prior notice of any hearing was issued nor the Petitioners were given an opportunity of oral/personal hearing before the impugned orders have been passed.

4. In the light of the above concession and undisputed factual position, we allow this Writ Petition. We set aside each of the orders passed on the Petitioner's Application and direct that the said Applications shall be re-heard by a competent authority. He shall pass a fresh speaking order but, before that he must give an opportunity of personal hearing to the Petitioner and allow them to make submissions and produce such material as is permissible in law. After

due consideration of the oral submissions and documents, the Competent authority shall pass orders assigning reasons. It is clarified that all contentions on merits are kept open. While dealing with the matter and deciding it afresh the Competent Authority should not be influenced by any of the earlier conclusions and as recorded in the impugned orders each of which are quashed and set aside.

This Petition is allowed in above terms and with above directions but without any order as to costs.

G.S.KULKARNI, J

S.C.DHARMADHIKARI, J

