IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.16888 OF 2024

Geetai Steels Pvt. Ltd. ...Petitioner
Versus
Commissioner of State Tax & Anr. ...Respondents

AND
WRIT PETITION NO.16889 OF 2024

Geetai Steels Pvt. Ltd. ...Petitioner
Versus
Commissioner of State Tax & Anr. ...Respondents

Dr. Avinash Poddar (through VC) a/w Ms. Deepali Kamble for Petitioner in both the petitions.
Ms. S. D. Vyas, Addl. G. P. for Respondent-State in WP/16888/2024.
Ms. S. D. Vyas, Addl. G. P. a/w Mr. S. L. Babar, AGP for Respondent-State in WP/16889/2024.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.

DATED : 19 November 2024

PC.:-

1. Heard learned counsel for the parties.

2. Rule. The Rule is made returnable immediately at the request and with the consent of the learned counsel for the parties.

3. Both petitions challenge the order dated 11 September 2024 for the Financial Years 2018-2019 and 2019-2020.

4. The main ground of challenge is that the Petitioner was not given an opportunity for hearing as contemplated by Section 75(4) of the Central Goods and Services Tax Act, 2017 (CGST Act).

5. Ms. Vyas, learned counsel for the Respondent, pointed out that the petitioner had declined the personal hearing order on the portal. However, she fairly admits that no hearing as contemplated by Section 75(4) was granted to the Petitioner, though an adverse order was eventually made.

6. Section 75(4) of the CGST Act provides that an opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty or where any adverse decision is contemplated against such person. In this case, the Petitioner had requested an opportunity for a personal hearing in the written response, though, on the portal, the Petitioner had clicked on "N" instead of "Y". "In any event, an adverse decision has been made against the Petitioner. Therefore, an opportunity of a personal hearing should have been given to the Petitioner before the impugned orders were made. This position was fairly accepted on behalf of the Respondents.

7. On the above short ground and without relegating Petitioner to resort to any alternate remedies, we set aside the impugned orders dated 11 September 2024 and remand the matter to the file of Respondent No.2. Now, the second respondent must grant to Petitioner the opportunity of hearing and dispose of the matter by passing a reasoned order.

8. All contentions of all parties on merits are left open.

9. The Rule is made absolute in the above terms in both these petitions. There shall be no order for costs.

10. All concerned must act on an authenticated copy of this order.

(Jitendra S. Jain, J.) **(M. S. Sonak, J.)**