



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.3755/2023

Shri Swami Samartha Developers and Builders, Nagpur

...Versus...

Income Tax Officer Ward 4 (4) Nagpur, Maharashtra and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Mr. Abhay Agrawal, Advocate for petitioner
Mr. Bhushan Mohta, Advocate for respondents

**CORAM : AVINASH G. GHAROTE AND
SMT. M.S. JAWALKAR, JJ.**

DATE : 18/01/2024

1. The petition questions the order dated 30/03/2023 (pg.130) on the ground that in spite of having requested for a personal hearing by the communication dated 06/03/2023, the petitioner was not granted any such hearing, which has resulted in denial of a reasonable and fair opportunity to the petitioner to explain his stand to the Assessment Officer.

2. Without going into the merits of the matter, a perusal of the e-mail dated 06/03/2023 (pg.101) would indicate that a request for personal hearing was indeed made to the respondents. However, there is no decision to this request either way.

3. Since Mr. Mohta, learned counsel for the respondents contends that there was a different show-cause notice given later in point of time and no personal hearing was requested, in that regard, a query was made to him as to whether the first notice was withdrawn, to which, he answers in the negative.

4. Learned counsel for the petitioner submits that there is no substantial difference between the first and the second notice and therefore, the denial is unjustified.

5. The record indicates that on 06/03/2023, a request for personal hearing was made by the petitioner to explain the facts of the case so that there was no double taxation leading to harassment of the petitioner. Since there is an admitted position that in pursuance to the said request no personal hearing was given, neither there is a denial spelt on record backed by sufficient reasons, this would clearly indicate denial of an opportunity to the petitioner in spite of his request in that regard.

6. In that view of the matter, only on this ground the impugned order is hereby quashed and set aside and the matter is remitted back to the respondent no.3 to grant hearing to the petitioner in-person through Video Conferencing on

05/02/2024 at 11:00 a.m.

7. The respondents shall make appropriate arrangements for sending video conferencing link to the petitioner.

8. The writ petition is accordingly disposed of in the above terms. No order as to costs.

(SMT. M.S. JAWALKAR, J.)

(AVINASH G. GHAROTE, J.)