

Amol

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 3562 OF 2025**

Hindustan Steelworks Construction Limited ...Petitioner

Versus

The Additional Commissioner of CGST
and Central Excise Appeals IT Mumbai & Ors ...Respondents

Mr Vipul J Shah, *with Ms Siddhi Mathe, for the Petitioner.*

Mr Y R Mishra, *with Ms Niyati Mankad (through VC), Ms Bhavana Ahire, & Ms Pratishtha Shukla, for the Respondents.*

**CORAM M.S. Sonak &
Advait M. Sethna, JJ.
DATED: 10 November 2025**

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ORAL ORDER: - *(Per M. S. Sonak, J)*

- 1.** Heard Mr Vipul Shah for the Petitioner and Mr Y R Mishra for the Respondents.
- 2.** Rule. The Rule is made returnable immediately at the request of and with the consent of the learned Counsel for the parties.
- 3.** The Petitioner challenges the order dated 28 February 2025 made by the First Appellate Authority(R1), inter alia, on the ground that it was made in gross violation of the principles of natural justice and fair play.

4. Mr Mishra raises a preliminary objection to the entertainability of this Petition on the ground that the Petitioner has an alternate and efficacious remedy of further Appeal against the impugned order.

5. For reasons discussed, we are satisfied that this is indeed a case where the impugned order was made in violation of the principles of natural justice and fair play. Such a ground is one of the well-known exceptions to the rule of exhaustion of alternate remedies.

6. The records show that the Petitioner, vide email dated 13 December 2024, was called upon to attend the personal hearing on 20 December 2024, to be held online. Therefore, the Petitioner, by its mail dated 16 December 2024 (Exhibit D6 at page 84 of the paper book), wrote to the First Appellate Authority that its representative would like to attend the personal hearing scheduled for 20 December 2024 in person, instead of online.

7. The records further show that the office of the First Appellate Authority, vide email dated 18 December 2024 (Exhibit E, at page 85 of the paper book), informed the Petitioner that the personal hearing scheduled on 20 December 2024 *“is postponed due to some problem. Next date will be intimated in due course”*.

8. The Petitioner has pleaded, and it is nowhere denied that the next date of the personal hearing was never communicated to the Petitioner. Even the impugned order does not refer to any communication of the next date. Instead,

by the impugned order dated 28 February 2025, the demands made in the show cause notice have been confirmed.

9. The above circumstances demonstrate that the Petitioner was deprived of the opportunity for a personal hearing. The statement in the impugned order that ample opportunities were provided to the Petitioner but that it was the Petitioner who failed to utilise them is not supported by the record. For the personal hearing scheduled online on 20 December 2024, the Petitioner's representative offered to attend in person. A request to this effect was made well in advance. The Petitioner was not informed that such a request had been rejected. Instead, the Petitioner was told that the personal hearing was postponed "*due to some problem*". The Petitioner was further informed that the next date for the personal hearing would be "*intimated in due course*". There is no record to show that the Petitioner was given any notification of the postponed date.

10. For all the above reasons, we are satisfied that this is a case of failure of natural justice and fair play. On this ground alone, the impugned order dated 28 February 2025 is hereby set aside.

11. Since we are setting aside the impugned order only on the ground of failure of natural justice, we remand and restore the Petitioner's Appeal to the First Appellate Authority for fresh consideration in accordance with law and on its own merits.

12. This time, however, the First Appellate Authority must give the Petitioner a personal hearing, either online or, if the Petitioner so desires, in person. The date in this regard must

be intimated to the Petitioner at least ten days before the scheduled date.

13. The Petitioner must also cooperate and not seek undue adjournments. The Petitioner's representative must attend the personal hearing on the appointed date.

14. The Rule is made absolute in the above terms without any costs order. All concerned are to act on an authenticated copy of this order.

(Advait M. Sethna, J)

(M.S. Sonak, J)