IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2025

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The Honourable **Mr.Justice Krishnan Ramasamy**

**W.P.No.27891 of 2025**
**and**
**W.M.P.Nos. 31245 & 31248 of 2025**

M/s.PAN HORUS GARMENTS PVT. Ltd.,
Rep. By its Director, Mr.Mohan Murali,
695/1, P.H.Road, Aminjikarai,
Chennai, Tamil Nadu, Chennai – 600 029. ...Petitioner

Vs.

The Assistant Commissioner (ST),
Arumbakkam Assessment Circle,
No.1, PAPJM Buildings,
4th Floor, Greams Road,
Chennai – 600 006. ...Respondent

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the respondent in GSTIN:33AAACP1638A1Z4/2020-2021 dated 17.10.2024 quash the same as illegal, erroneous, arbitrary amounting to double taxation and violation of principles of natural justice.

For Petitioner : Mr.Arumugam P.

For Respondent : Mr.V.Prashanth Kiran
Government Advocate (Tax)

**Order**

Challenge was made against the impugned assessment order dated 17.10.2024.

2. The learned counsel appearing for the petitioner would submit that in the present case, a reply was filed on 29.08.2023. After filing a reply, no opportunity was given therefore, he would submit that in the present case, the impugned order passed was in violation of the principles of natural justice.

3. The learned counsel appearing for the respondent would submit that in the present case, by virtue of the reminder notice dated 21.08.2023, date was fixed for filing reply on or before 31.08.2023 and date was fixed for personal hearing on 29.08.2023. He would further submit that when the reply was filed on 29.08.2023, the petitioner has not opted for personal

hearing so that the respondent passed the impugned order without providing an opportunity of personal hearing.

4. Admittedly, reply was filed on 29.08.2023 thereafter, no opportunity of personal hearing was granted to the petitioner, so there is no question of not requesting for personal hearing and not opting for personal hearing does not mean that the petitioner is excluded from receiving the opportunities of personal hearing or he waived the rights which is available in terms of provisions of Section 75(4) of the GST Act. A reading of the 75(4), it is very clear that in the event the respondent intend to pass any adverse order, confirming the proposals, in which case, it is mandatory to provide an opportunity of personal hearing. The law mandated to provide the respondent an opportunity of personal hearing before passing adverse orders. The movement when they have decided to confirm the proposals and immediately thereafter, the legal rights accrued to the petitioner to get the personal hearing opportunity. The respondent informed the petitioner that they have not accepted the reply and thereafter, if they requested the petitioner by issuing the notice where they are intended to avail the personal

hearing which they are entitled to in terms of provisions of Section 75(4) and in that case, if the petitioner has not replied that they have not intended to avail the personal hearing then, I find some force in the submission of the learned counsel appearing for the respondent. In the present case, admittedly, the petitioner has not provided an opportunity of personal hearing at the time of filing the reply. Therefore, this Court find that the order passed was in violation of the principles of natural justice.

**5.** Therefore, this Court finds that there is a lack of opportunities being provided to serve the notices/orders etc., effectively to the petitioner. In such circumstances, this Court is of the view that the impugned assessment order came to be passed without affording any opportunity of personal hearing to the petitioner, confirming the proposals contained in the show cause notice. Hence, this Court is inclined to set-aside the impugned order with terms, by issuing the following directions:-

i) The impugned order passed by the respondent dated 17.10.2024 is set aside.

ii) Consequently, the matter is remanded to the respondent for fresh consideration.

iii) Thereafter, the petitioner is directed to file a reply along with supportive documents within a period of two weeks.

iv) Thereupon, the respondent is directed to consider the reply and shall issue a clear 14 days notice affording an opportunity of personal hearing to the petitioner and shall decide the matter in accordance with law.

**6.** With the above observations & directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

**31.07.2025**

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Index : yes/no
Neutral Citation : yes/no

**Krishnan Ramasamy,J.,**

KKN

To

The Assistant Commissioner (ST),
Arumbakkam Assessment Circle,
No.1, PAPJM Buildings,
4th Floor, Greams Road,
Chennai – 600 006.

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