IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.3397 OF 2026

Mascot Constructions Co and Another PETITIONERS

VERSUS

The Commissioner of Goods and Service
Tax and Another RESPONDENTS

....

Mr. Amit A. Yadkikar, Advocate for the Petitioners
Mr. D. S. Ladda, Advocate for Respondent No.1

....

[CORAM : NITIN B. SURYAWANSHI, &
VAISHALI PATIL-JADHAV, J. J.]

DATE : 8th APRIL, 2026

ORDER :

1. By this Petition, the Petitioner challenges order dated 18th October, 2023 (Exhibit-D) by which the Petitioner is directed to pay service tax of Rs.4,36,18,207/-, on the ground that opportunity of hearing was not given to the Petitioner.

2. In support of his case, the Petitioner has filed notice of hearing dated 5th October, 2023 and the envelope containing the said notice, which shows that it was dispatched on 14th October, 2023 and was delivered to the Petitioner on 18th October, 2023. It is pertinent to note that the hearing was scheduled on 11th October, 2023. It is further contended that the Petitioner is a

government contractor and vide notification No.25 of 2012 dated 20th June, 2012 he is exempted from paying tax for the work done for the Government or government undertaking etc.

3. Learned Advocate for Respondent No.1 has strenuously opposed the Petition stating that, already the Petitioner had appeared for hearing on one date and thereafter, he failed to appear before the Commissioner, in spite of giving several opportunities of personal hearing. He submits that the Petitioner had already received email sent to him on 5th October, 2023 intimating to remain present on 11th October, 2023 for personal hearing, however, the Petitioner has failed to appear and produce the documents in support of his case. Therefore, the Respondent is justified in passing the impugned order.

4. Learned Advocate for the Petitioner contends that the Petitioner has not received and/or seen the email dated 5th October, 2023.

5. Taking into consideration the fact that the notice dated 5th October, 2023 intimating the Petitioner to remain present for hearing on 11th October, 2023, is dispatched on 14th October, 2023 and it was received to the Petitioner on 18th October, 2023, *prima facie*, we find merit in the contention of the Petitioner that

the impugned order is passed without giving opportunity of hearing to the Petitioner.

6. Though learned Advocate for Respondent No.1 contends that the Petitioner has alternate remedy of filing appeal, we are not agreeable to the said submission, as the impugned order is passed in violation of the principles of natural justice and to avail the alternate remedy of filing Appeal, the Petitioner will have to deposit an amount of about Rs.32 lakh. Since the Petitioner has good case on merits, opportunity of hearing needs to be given to the Petitioner. Hence, without making any comment on merits of the matter, the impugned order is quashed and set aside and the matter is relegated back to The Commissioner. The Petitioner shall appear before the Commissioner on 27th April, 2026 and present his case. The Commissioner shall take decision in the case of the Petitioner in accordance with the law, within a period of 12 weeks from the date of first appearance of the Petitioner.

7. Writ Petition is accordingly disposed of.

[VAISHALI PATIL-JADHAV]
JUDGE

[NITIN B. SURYAWANSHI]
JUDGE

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