IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9612 OF 2023

JM Mhatre Infra Pvt. Ltd.
Through Authorized Chetan J. Mhatre .....Petitioner

Versus

Union of India and Ors. .....Respondents

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Adv. Bhagrati Sahu a/w Mr. Bharat Raichandani i/b UBR Legal Advocates, for the Petitioner.

Mr. Siddharth Chandrashekhar a/w Mr. Abhishek R. Mishra, for the Respondent No.1.

Ms. Shruti D. Vyas, Addl. G. P. a/w Ms. P. J. Gavhane, A.G.P., for the Respondent-State.

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CORAM : M. S. KARNIK &
SANDESH D. PATIL, JJ.

DATE : 14th OCTOBER 2026

P.C.:-

1. Heard learned Counsel for the Petitioner.

2. Learned Counsel for the Petitioner submitted that the impugned Order has been passed in breach of principles of natural justice. It is submitted that the Petitioner was not given an opportunity of personal hearing.

MANISHA BALKRISHNA TALEKAR
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Date: 2026.10.16 17:28:58 +0530

3. Ms. Shruti D. Vyas, learned Addl. G.P. for the Respondents-State invited our attention to the affidavit-in-reply filed on behalf of the Respondent Nos.2 and 3. It is submitted that every possible opportunity was given to the Petitioner to reply and answer the Show Cause Notice. Learned Addl. G. P. submitted that the Petitioner in the option for personal hearing has ticked the box as 'No'. Hence, there was no question of personal hearing.

4. We have gone through the affidavit-in-reply filed by the Respondents. Suffice it to observe that in the Form GST DRC-06, the Petitioner in the option for personal hearing has ticked the box as 'No'. The same appears to be an inadvertent error. However, we find that in the reply to the Show Cause Notice, the Petitioner had specifically requested that a personal hearing be granted to the noticees before any decision was taken in the matter.

5. Learned Counsel for the Petitioner relied upon the decision of this Court in ***Kuehne Nagel Pvt. Ltd. Vs. State of Maharashtra***[1] This Court in paragraph nos.8, 9 and 10 has made the following observations:

1 (2023) 13 Centax 196 (Bom.)

Section 75(4) and Section 75(5) of the CGST Act reads thus "

Section 75. General provisions relating to determination of tax.-

(1) to (3)

(4) 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.

(5) The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time to the said person and adjourn the hearing for reasons to be recorded in writing

Provided that no such adjournment shall be granted for more than three times to a person during the proceedings."

(emphasis supplied)

9. The petitioner in reply to the show cause notice has explicitly stated for personal hearing before any decision is taken by respondent no. 3, although inadvertently, it had ticked mark the box "No" In our view, on holistic reading of the reply, there appears to be an inadvertent error on the part of the petitioner of tick marking the box "No," because in the very same letter, the petitioner has expressly requested for personal hearing. The department was thus under an obligation to grant an opportunity of a hearing to the petitioner.

10. In our opinion, this is a clear case where the adjudicating officer was required to take into consideration the specific request as made by the petitioner that an opportunity of personal hearing be

> *granted to the petitioner. When such specific plea was taken, a mechanical approach was adopted by the adjudicating officer in only noticing the box where inadvertently the petitioner had put a tick mark on 'No' Thus, this was not a case where the petitioner had expressly walved its right of personal hearing.*

6. In our opinion, the impugned Order is passed in breach of principles of natural justice. The Petitioner ought to have been given an opportunity of personal hearing. The Petitioner has specifically requested for a personal hearing in the reply to the Show Cause Notice. Merely because in the concerned form the Petitioner in the option for personal hearing has ticked the box as 'No', it does not mean that the Petitioner should have been deprived of an opportunity of personal hearing, having regard to the facts and circumstances of this case. In such view of the matter, we are inclined to set aside the impugned Order. Hence, the following Order:

ORDER

(i) The impugned Order No.AC(RAI-INV-D-003) GST/Investigation/2021-22/B-239 dated 28th February, 2022 is quashed and set aside.

(ii) The Adjudicating Officer shall grant an opportunity of personal hearing to the Petitioner and after considering all the contentions of the Petitioner, pass an appropriate Order in accordance with law.

(iii) The Petitioner to appear before the Adjudicating Officer on 19th October, 2026 at 11:00 a.m. Within a period of four weeks from 19th October, 2026, the Show Cause Notice be adjudicated in accordance with law.

(iv) In view of above, Writ Petition No.9612 of 2023 stands disposed of.

(SANDESH D. PATIL, J.) **(M. S. KARNIK, J.)**