M/S K.D.Enterprises v. State of U.P. and Another

WRIT TAX No. 1313 of 2023 | Decision: 2023-11-21 | Allahabad High Court

Neutral Citation No. - 2023:AHC:220857-DB

Court No. - 21

Case :- WRIT TAX No. - 1313 of 2023

Petitioner :- M/S K.D.Enterprises Respondent :- State of U.P. and Another Counsel for Petitioner :- Vishwjit Counsel for Respondent :- C.S.C.

Hon'ble Manoj Kumar Gupta,J. Hon'ble Donadi Ramesh,J.

1. The instant writ petition is directed against the order dated 19.04.2023 passed by Commercial Tax Officer State Tax Sector-10, Meerut (Respondent No. 2) assessing the petitioner to GST under Section 73 of the U.P. Goods and Services Tax Act, 2017.

2. The primary challenge is on the ground that although in terms of Section 45(4) of the Act, the petitioner was entitled to personal hearing but the same was not afforded to it before passing the impugned order. In support of the said contention, learned counsel for the petitioner points out that initially when notice was issued on 07.10.2022, the Assessing Officer fixed 21.10.2022 as date for personal hearing. However, on that date, no order was passed. After expiry of six months i.e. on 21.03.2023 the Assessing Officer issued another notice fixing time frame for submitting reply. However, in the said notice, no date for personal hearing was notified. Even on that date, no order was passed. Ultimately, the impugned order was passed on 09.04.2023.

3. Shri Ankur Agarwal, learned counsel appearing on behalf of the revenue is not in a position to dispute that the Assessee has been conferred with right of personal hearing under Section 75(4) of the Act. He is also not in a position to dispute that vide notice dated 21.03.2023 although the petitioner was granted time once again to file reply by 05.04.2023 but thereafter no date for personal hearing was notified and straight away the impugned order dated 19.04.2023 was passed.

4. In the facts and circumstances noted above, we are of the considered opinion that there is infraction of the statutory provisions as well as principles of natural justice and consequently,

the impugned assessment order is hereby quashed. The matter is remitted back to the Assessing Officer for passing a fresh order in accordance with law.

5. The petition is, accordingly, allowed.

Order Date :- 21.11.2023 Mukesh Kr.

(Donadi Ramesh,J.) (Manoj Kumar Gupta,J.)

2023-11-23T10:06:45+0530 High Court of Judicature at Allahabad