

Providing an Opportunity for a Personal Hearing is mandatory before issuing of Order

The Hon'ble Madras High Court in the case of the ***A.H. Enterprises v. Deputy Commercial Tax Officer [Writ Petition No. 35894 of 2023 dated January 04, 2024]*** held that it is mandatory to provide the personal hearing under Section 75 of the Tamil Nadu Goods and Service Tax Act, 2017 ("**the TNGST Act**") before passing an Order.

Facts:

A.H. Enterprises ("**the Petitioner**") was called upon to pay a sum of INR 2,58,597/- towards the difference between returns filed in FORM GSTR 1 and FORM GSTR 3B including both interest and penalty vide Order dated October 11, 2023 ("**Impugned Order**").

The Petitioner contended that the Impugned Order was issued without providing an opportunity of a personal hearing as mandated by Section 75 of the TNGST Act.

The Deputy Commercial Tax Officer ("**the Respondent**") contended that the demand raised in the Impugned Order is the difference between the returns filed in FORM GSTR-1 and FORM GSTR 3B along with interest and penalty and the matter may be remanded for reconsideration.

Hence, the petition was filed by the Petitioner to challenge the Impugned Notice.

Issue:

Whether it is mandatory to provide an opportunity for the personal hearing before the issuance of an Order by the Authority?

Held:

The Madras High Court in ***Writ Petition No. 35894 of 2023*** held as under:

- Held that, as per Section 75 of the TNGST Act, it is mandatory to provide the Personal Hearing to the Petition before the issuance of the Impugned Order.

- Directed that, the Respondent provide a Personal Hearing to the Petitioner and thereafter issue a reasoned order within a maximum period of four weeks from the date of receipt of a copy of this order. Hence, the Impugned Order was quashed and remanded for reconsideration.

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