

Set aside the order passed without providing opportunity of hearing and directed Revenue to conduct afresh proceeding

The Hon'ble Madras High court in the case of *M/s. SHIDO Pharma v. Assistant Commissioner (ST) [W.P. Nos. 10371 to 10373 of 2023 and W.M.P Nos. 10334 to 10336 of 2023 dated April 03, 2023]* held that opportunity of being heard was not granted to the assessee, which is contrary to the principle of natural justice, hence set aside the impugned order and directed the Revenue Department to conduct proceeding afresh.

Facts:

The Assistant Commissioner (ST) intercepted conveyance of M/s. SHIDO Pharma (**“the Petitioner”**) and issued a Show Cause Notice (**“the SCN”**) dated March 18, 2023 proposing an addition under the provisions of the Integrated Goods and Service Tax Act, 2017 (**“the IGST Act”**). The Petitioner on March 24, 2023, filed a reply to the SCN specifying that the provisions of the IGST Act are inapplicable to question the transaction.

However, on the same date the Revenue Department filed a revised notice (**“the Impugned SCN”**) specifying that the provisions of the Central Goods and Services Tax Act, 2017 (**“the CGST Act”**) / the State Goods and Services Tax Act, 2017 (**“the SGST Act”**) are applicable on the transaction. Thereafter, the Revenue Department issued an order of detention of goods under Section 129(3) of the CGST Act (**“the Impugned Order”**).

Aggrieved by the Impugned Order the Petitioner filed writ before the Hon'ble Madras High Court.

Issue:

Whether the detention of goods without proper hearing to the assessee is acceptable?

Held:

The Hon'ble Madras High Court in ***W.P. Nos. 10371 to 10373 of 2023 and W.M.P Nos. 10334 to 10336 of 2023*** held as under:

- Observed that, the Petitioner was permitted to appear before Revenue Department for the SCN dated March 18, 2023 and was not granted any further hearing for the Impugned SCN.
- Further observed that the proceeding was concluded by violating the principle of natural justice.
- Set aside the Impugned Notice are directed the Petitioner to appear before Revenue Department along with the reply to the Impugned Notice and directed the Revenue Department for afresh proceeding.

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