

**Show Cause Notice without date, time and venue of personal hearing violative of natural justice**

The Hon'ble Madhya Pradesh High Court in ***Concord Tieup Pvt. Ltd. v. State of Madhya Pradesh [Writ Petition No.26956 of 2022 dated April 25, 2023]*** quashed the order and remitted back the matter for afresh hearing in the case where the show cause notice was issued without containing the details like date, time and venue of personal hearing.

**Facts:**

M/s. Concord Tieup (P.) Ltd. ("**the Petitioner**") was served with the notice of intimation of tax under Section 74(5) of the Madhya Pradesh Goods and Services Tax Act, 2017 ("**MPGST Act**") ("**the Notice**"). The Petitioner submitted reply of the Notice on June 23, 2022.

Thereafter a show cause notice dated July 22, 2022 under section 74 of the MPGST Act was issued ("**the SCN**"). The SCN *inter alia* mention about personal hearing to the effect that "*you may appear before the undersigned for personal hearing either in person or through authorized representative for representing your case on the date, time and venue, if mentioned in table below*", however, no date, time and venue for personal hearing was shown in the SCN.

Thereafter, on August 24, 2022 the Revenue Department passed an order under Section 74 of the MPGST Act ("**the Impugned Order**").

The Petitioner filed writ before the High court and contended that as per Section 75(4) of the MPGST Act, before passing the Impugned Order, personal hearing is necessary, which should be mentioned in the notice itself, as such in absence of personal hearing, the Impugned Order is not sustainable.

**Issue:**

Whether Revenue Department can issue the SCN without providing the date, time and venue for personal hearing and pass order on the basis of such SCN?

**Held:**

The Hon'ble Madhya Pradesh High Court in ***Writ Petition no.26956 of 2022*** held as under:

- Relied upon, the case of ***Bharat Mint & Allied Chemicals v. Commissioner of Commercial Tax, 2022 (59) G.S.T.L. 394 (All.)***, wherein the Hon'ble Allahabad High Court held that opportunity of hearing has to be granted by Revenue Department either on request of the person chargeable with tax for opportunity of hearing or where any adverse decision is given against such person.
- Observed that, the SCN failed to provide opportunity of personal hearing before passing the Impugned Order.
- Noted that, so far argument raised by the Revenue Department regarding availability of alternative remedy of appeal, is concerned, it is well settled that when due opportunity of hearing, as required under the law, has not been afforded and principle of natural justice has not been followed, then the question of availability of alternative remedy does not come in the way.
- Set aside the Impugned Order and remitted back the matter to the Deputy Commissioner for passing order afresh, after giving personal hearing to the Petitioner.

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