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WP-6061-2023

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

ON THE 10th OF JULY, 2025WRIT PETITION No. 6061 of 2023

*PAPER TRADE LINKS THROUGH ITS PROPRIETOR SHRI SANDEEP
BHARGAVA*

Versus

*UNION OF INDIA DEPARTMENT OF REVENUE MINISTRY OF FINANCE
AND OTHERS*

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Appearance:

Shri Piyush Parashar - Advocate for the petitioner.

*Shri Romesh Dave appearing on behalf of Shri Himanshu Joshi - Advocate
for the respondent No. 1.*

Shri Prasanna Prasad - Advocate for the respondents No. 3 & 4.

Shri Anand Soni - Additional Advocate General for the respondents/State.
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ORDER

Per. Justice Vivek Rusia

The petitioner has filed the present petition challenging the order dated 16.01.2023 passed by respondent No.3 whereby the tax liability as well as penalty has been imposed under the provisions of CGST Act, *inter alia* on the ground that the petitioner was not given any opportunity of cross-examination to the witnesses whose statements were relied in CGST Act.

02. The learned Authority has rejected the prayer for cross-examination only on the ground that they caused the delay in proceedings as well as they have made a statement after understanding the provisions of Section 70 of the CGST



Act & their statements appears to be correct.

03. Shri Prasad, learned counsel appearing on behalf of the respondents No. 3 & 4 submits that this order is appealable, therefore, the present petition is not maintainable and the petitioner/assessee did not explain the reason for cross-examining the witnesses. Both the reasons are not acceptable. When the order suffers from principle of natural justice, then the Writ Petition is maintainable. The right of cross-examination is provided under the Evidence Act. Every witness who either give oral statement or give affidavit are always subjected to cross-examination as held by the Apex Court in the case of *Ayaaubkhan Noorkhan Pathan vs. State of Maharashtra and Ors.* reported in AIR 2010 SC 58. The Apex Court has held that the cross-examination is one part of the principles of natural justice. Relevant paras 23, 42 & 46 are as under:-

"23. A Constitution Bench of this Court in *State of M.P. v. Chintaman Sadashiva Vaishampayan*, AIR 1961 SC 1623, held that the rules of natural justice, require that a party must be given the opportunity to adduce all relevant evidence upon which he relies, and further that, the evidence of the opposite party should be taken in his presence, and that he should be given the opportunity of cross-examining the witnesses examined by that party. Not providing the said opportunity to cross-examine witnesses, would violate the principles of natural justice. (See also: *Union of India v. T.R. Varma*, AIR 1957 SC 882; *Meenglas Tea Estate v. Workmen*, AIR 1963 SC 1719; *M/s. Kesoram Cotton Mills Ltd. v. Gangadhar & Ors.*, AIR 1964 SC 708; *New India Assurance Company Ltd. v. Nusli Neville Wadia and Anr.*, AIR 2008 SC 876; *Rachpal Singh & Ors. v. Gurmit Singh & Ors.*, AIR 2009 SC 2448; *Biecco Lawrie & Anr. v. State of West Bengal & Anr.*, AIR 2010 SC 142; and *State of Uttar Pradesh v. Saroj Kumar Sinha*, AIR 2010 SC 3131).

42. In pursuance of the said order, the original record was produced. However, the learned counsel remained unable to point out from the original record, any proceeding or event, by way of which, it could be ascertained that the appellant was in fact, given an opportunity to cross-examine the



witnesses, or to show that all the said witnesses were examined in the presence of the appellant. Further, he was also unable to satisfy this Court, with respect to the circumstances under which, the applications filed by the appellant on 28.2.2012, including the one to recall witnesses and permit him to cross-examine them, have been kept pending, without passing any order in relation to either one of them.

46. In view of the above discussion and considering the seriousness of the allegations, as the Scrutiny Committee has already conducted an inquiry in relation to this matter, the only grievance of the appellant is that there has been non-compliance with the principles of natural justice, and the fact that the applications filed by him, were not decided upon, we direct that before the submission of any report by the Scrutiny Committee, his application for calling the witnesses for cross-examination must be disposed of, and appellant must be given a fair opportunity to cross-examine the witnesses, who have been examined before the Committee. We further direct the Scrutiny Committee to pass appropriate orders in accordance with the law thereafter. In case, the Scrutiny Committee has already taken a decision, the same being violative of the principles of natural justice, would stand vitiated."

04. In view of the aforesaid, the impugned order is set aside. The matter is remanded back to the authority to proceed further at the stage of cross-examination. Accordingly, the Writ Petition is disposed of.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE

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