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Mandatory Personal Hearing under Section 75(4) Cannot be Waived even if not opted for personal Hearing by Assessee

The Hon'ble Gujarat High Court in the case of *Shree Gurukrupa Tradelink Private Limited vs State of Gujarat & Anr. [R/Special Civil Application No. 6483 of 2024, order dated March 18, 2026]* held that the option of "no personal hearing" exercised by the assessee cannot override the statutory mandate under Section 75(4) of the GST Act requiring grant of opportunity of personal hearing, and consequently quashed the order passed without granting adequate opportunities and remanded the matter for fresh adjudication.

Facts:

Shree Gurukrupa Tradelink Private Limited ("**the Petitioner**") was issued a show cause notice in Form GST DRC-01 dated October 16, 2023, to which it filed a reply in Form GST DRC-06 dated October 21, 2023, opting for "No" in respect of personal hearing.

The State of Gujarat & Anr. ("**the Respondent**") fixed a single date of hearing on November 6, 2023, and upon the Petitioner not remaining present, proceeded to pass the impugned order on that basis.

The Petitioner contended that only one opportunity of hearing was granted and the order was passed in violation of Section 75(4) of the CGST Act and principles of natural justice.

The Respondent contended that the Petitioner had itself opted for "no personal hearing" in its reply and therefore cannot complain of lack of hearing, and that an opportunity was nonetheless provided which the Petitioner failed to avail.

Aggrieved by the passing of the order without granting adequate opportunities of hearing as mandated under law, the Petitioner approached the Hon'ble High Court.

Issue:

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Whether the option of no personal hearing exercised by the assessee can override the mandatory requirement of granting personal hearing under Section 75(4) of the GST Act before passing an adverse order?

Held:

The Hon'ble Gujarat High Court in *R/Special Civil Application No. 6483 of 2024* held as under:

- Observed that, the Petitioner has been granted the opportunity of hearing for one time only.
- Noted that, the show cause notice was issued and the petitioner opted for no personal hearing, yet one date of hearing was fixed and the order was passed upon non-appearance.
- Observed that, it was categorically accepted by the Respondent that three opportunities of personal hearing as envisaged under Section 75(4) were not provided.
- Held that, the option of no personal hearing taken by the petitioner, cannot override the effect of mandate given by the statutory provision in Section 75(4) of the Act.
- Noted that, the authority had not accepted the submissions made in Form GST DRC-06 and therefore ought not to have decided the matter on the very first date of hearing.
- Observed that, it was incumbent upon the authority to follow the mandate of Section 75(4) and grant further opportunity of hearing.
- Noted that, the principles of natural justice require that the other side should be heard before any order is passed, including proper notice and opportunity of hearing.
- Held that, the impugned order was passed in breach of settled legal position and principles of natural justice and directed that, the impugned order is quashed and set aside and the

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matter is remanded back to the adjudicating authority to pass a fresh order after affording adequate opportunity of hearing within 12 weeks.

Our Comments:

The Court in its earlier decision in ***M/s. Yadav Trailor Transport Co. vs Union of India & Ors. [2025:GUJHC:63205-DB]***, wherein it was held that absence of proper opportunity of hearing renders the order violative of principles of natural justice, particularly emphasizing that it is fundamental proposition of law that other side should be heard before any order is passed and invoking the maxim *audi alteram partem*.

The reasoning in the present case aligns with the above precedent in holding that procedural compliance relating to opportunity of hearing is mandatory and cannot be diluted even where the assessee appears to waive such right.

Relevant Provision:

Section 75(4) of the GST Act, 2017

“75. General provisions relating to determination of tax.-

(4) An opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person.”

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