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## GST Order Passed by Successor Officer Without Granting Fresh Hearing Violates Principles of Natural Justice

The Hon'ble Delhi High Court in *A.G. and Sons HUF v. Union of India & Ors. [W.P.(C) 2628/2026 & CM APPL. 12778/2026 dated May 12, 2026]* set aside the adjudication order passed by the successor Additional Commissioner and held that where the personal hearing was granted by the predecessor officer but the final order was passed by the successor officer who never heard the assessee, such conduct amounts to violation of the principles of natural justice and is contrary to the constitutional protections guaranteed under Article 14 of the Constitution of India. The Court further held that the existence of an alternate statutory remedy is no bar to entertain a writ petition where the impugned order is passed in breach of natural justice.

### Facts:

A.G. and Sons HUF ("**the Petitioner**") is a majority shareholder of M/s AC Goel Tradelinks Pvt. Ltd. ("**the Company**"). Pursuant to investigation proceedings, a Show Cause Notice was issued raising an Input Tax Credit ("**ITC**") demand of Rs. 10.9 crore along with interest and penalty on the Company on account of allegedly wrongly availed/utilized ITC, and an equivalent penalty was proposed on the Petitioner under Section 122(1A) of the Central Goods and Services Tax Act, 2017 ("**the CGST Act**").

During the course of adjudication, personal hearing was granted to the Petitioner by Mr. Sammer Kumar Jha, Additional Commissioner. However, before the order could be passed, Mr. Sammer Kumar Jha was transferred and Mr. Debjit Banerjee took over the said post. The impugned Order-in-Original dated December 30, 2025 ("**the Impugned Order**") confirming the demand was eventually passed by Mr. Debjit Banerjee, who had neither conducted the personal hearing nor heard the arguments of the Petitioner.

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Aggrieved by the Impugned Order, the Petitioner filed a writ petition before the Hon'ble Delhi High Court, contending that:

- The authority that passed the Impugned Order had neither conducted the personal hearing nor heard the arguments;
- The Impugned Order is non-speaking and bereft of any reasons;
- The Petitioner was not afforded any opportunity to cross-examine the witnesses whose statements were relied upon by the Department;
- The jurisdictional conditions to invoke Section 122(1A) of the CGST Act are not fulfilled, as the Petitioner is neither a taxable person nor has retained any benefit of the transaction; and
- Relevant documents pertaining to the genuineness of the ITC claimed by the Company, which were seized by the Department, were not supplied to the Company despite specific requests, thereby denying it a fair opportunity to defend its case.

The Revenue contended that there is no statutory embargo on the successor officer passing an order on the basis of the notes of final hearing recorded by the predecessor officer, and further that the Petitioner had an efficacious alternate remedy of statutory appeal.

## **Issue:**

Whether an adjudication order passed by the successor officer, who never heard the assessee, is sustainable in law where the personal hearing was granted by the predecessor officer prior to his transfer?

## **Held:**

The Hon'ble Delhi High Court in ***W.P.(C) 2628/2026*** held as under:

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- **Observed that**, the Impugned Order dated December 30, 2025 was passed by Mr. Debjit Banerjee, Additional Commissioner, whereas the personal hearing was granted by his predecessor Mr. Sammer Kumar Jha. The Court was unable to convince itself that there existed any notes of the predecessor officer that were available to the successor officer for consideration while passing the Impugned Order.
- **Noted that**, the Hon'ble Supreme Court in *Automotive Tyre Manufacturers Association v. Designated Authority and Ors.* has categorically held that a personal hearing enables the authority concerned to watch the demeanour of the witnesses and clear up doubts during arguments, and if one person hears and another decides, the personal hearing becomes an empty formality.
- **Held that**, such conduct of granting hearing by one officer and passing the order by another officer amounts to violation of the principles of natural justice and is contrary to the constitutional protections guaranteed under Article 14 of the Constitution of India.
- **Held that**, relying on the ratio laid down by the Hon'ble Supreme Court in *Whirlpool Corporation v. Registrar of Trade Marks, Mumbai and Others [(1998) 8 SCC 1]*, the bar of alternate statutory remedy does not operate where the impugned order is passed in violation of the principles of natural justice, and accordingly entertained the writ petition.
- **Directed that**, the Petitioner shall appear before the Additional Commissioner along with written submissions on May 25, 2026, without prejudice to its right to contend that non-supply of seized documents amounts to denial of opportunity of hearing, and that the Respondent shall be sensitive to such request of the Petitioner while dealing with the matter afresh.

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Hence, the matter was remanded back to the Adjudicating Authority for fresh consideration in accordance with the principles of natural justice.

## Our Comments:

Section 75(4) of the CGST Act mandates that 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. Section 75(5) further provides that an adjournment may be granted for reasons to be recorded in writing, with a maximum of three adjournments. These provisions enshrine the principle of *audi alteram partem* in the GST adjudication framework.

The principle that “one who hears must decide” is well-settled in Indian jurisprudence. The Hon’ble Supreme Court in ***Gullapalli Nageswara Rao v. Andhra Pradesh State Road Transport Corporation [AIR 1959 SC 308]*** laid down the foundational principle that if one officer hears and another decides, the personal hearing becomes an empty formality. This principle was reiterated in ***Automotive Tyre Manufacturers Association v. Designated Authority [(2011) 2 SCC 258]***, which the Hon’ble Delhi High Court has relied upon in the present case.

Further, in ***Whirlpool Corporation v. Registrar of Trade Marks [(1998) 8 SCC 1]***, the Hon’ble Supreme Court carved out three well-recognized exceptions to the rule of alternate remedy, namely, (i) enforcement of fundamental rights, (ii) violation of the principles of natural justice, and (iii) where the order or proceedings are wholly without jurisdiction or where the vires of the statute is challenged. This judgment continues to be the bedrock for entertaining writ petitions under Article 226 despite availability of statutory appellate remedies.

This decision is in line with several recent rulings under the GST regime where writ courts have set aside adjudication orders passed in violation of natural justice. In ***M/s Hero Motocorp Ltd. v. Union of India*** and similar matters, the courts have consistently held that procedural fairness is the soul of quasi-judicial adjudication and cannot be sacrificed at the altar of administrative

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convenience such as transfer of officers. Taxpayers facing adjudication proceedings should therefore record requests for personal hearing in writing and, in case of change of incumbent officer, insist upon a fresh hearing before the successor before any adverse order is passed.

It is also pertinent to note that the Court has kept open the Petitioner's contention regarding non-supply of seized/relied-upon documents, which is another facet of natural justice consistently recognized by courts — the right to inspect and obtain copies of documents relied upon in the Show Cause Notice and the right to cross-examine the witnesses whose statements form the basis of the demand. The decision thus reinforces multiple layers of procedural safeguards available to taxpayers under the GST regime.

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