

A2Z Taxcorp LLP

Ex-parte assessment order passed without granting sufficient time to reply to SCN is liable to be quashed

The Hon'ble Karnataka High Court in *M/s Leadingly Trading LLP v. Deputy Commissioner of Commercial Taxes [Writ Petition No. 14238 of 2026 dated May 07, 2026]* quashed the ex-parte assessment order passed under Section 73 of the Central Goods and Services Tax Act, 2017 ("**the CGST Act**") for the period April 2021 to March 2022, on the ground that out of three notices allegedly issued by the Revenue, the assessee received only one notice granting merely one day's time to submit reply, and held that principles of natural justice warrant a fresh opportunity to be granted; accordingly, remanded the matter to the Competent Authority to reconsider the case afresh from the stage of issuance of show cause notice.

Facts:

M/s Leadingly Trading LLP ("**the Petitioner**") is a registered taxpayer based in Bengaluru. The Deputy Commissioner of Commercial Taxes (Audit-3.2), Bengaluru ("**the Respondent**") initiated adjudication proceedings under Section 73 of the Karnataka Goods and Services Tax Act, 2017 ("**the KGST Act**") read with Section 73 of the CGST Act for the financial year 2021-22 (April 2021 to March 2022).

Pursuant to such proceedings, a show cause notice was stated to have been issued under sub-section (5) of Section 73. According to the Petitioner, although three notices were claimed to have been issued by the Revenue, the Petitioner received only one notice wherein merely one day's time was granted to him to submit reply. Due to reasons which were beyond his control, the Petitioner could not appear before the Competent Authority nor file reply.

Consequently, the Respondent passed an ex-parte assessment order dated December 02, 2025 raising demand against the Petitioner. Aggrieved by the said order, the Petitioner filed a writ petition before the Hon'ble Karnataka High Court under Articles 226 and 227 of the

A2Z Taxcorp LLP

Constitution of India, seeking quashing of the said ex-parte order. The Petitioner contended that filing an appeal would be a futile exercise as he had not participated in the proceedings, and prayed that he may be afforded an opportunity to file reply to the show cause notice. The Revenue, on the other hand, argued that sufficient opportunity was granted prior to passing of the assessment order, and accordingly the order does not warrant any interference.

Issue:

Whether an ex-parte assessment order passed under Section 73 of the CGST Act, 2017 without granting sufficient time to the assessee to file reply to the show cause notice is sustainable in law?

Held:

The Hon'ble Karnataka High Court in ***Writ Petition No. 14238 of 2026*** held as under:

- **Observed that**, the impugned assessment order dated December 02, 2025 is admittedly an ex-parte order passed against the Petitioner, and the fact that opportunity was not adequately provided is borne out from the material on record.
- **Noted that**, out of the three notices said to have been issued by the Revenue, the Petitioner had received only one notice wherein merely one day's time was granted to him to submit his reply to the show cause notice, which clearly cannot be construed as a reasonable opportunity.
- **Held that**, sufficient time was not granted to the Petitioner to submit reply to the show cause notice and the principles of natural justice warrant that a fresh opportunity be granted to enable the Petitioner to participate in the adjudication proceedings.
- **Directed that**, the impugned ex-parte assessment order dated December 02, 2025 stands quashed and the matter is remitted to the Competent Authority to consider the

A2Z Taxcorp LLP

case afresh from the stage of issuing show cause notice after affording proper opportunity to the Petitioner to file reply. The Petitioner was directed to appear before the Competent Authority on May 25, 2026, failing which the present order shall stand automatically recalled without further reference to the Court.

- **Hence, remand back to the assessing officer.**

Our Comments:

Section 73 of the CGST Act, 2017 governs the determination of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, for reasons other than fraud, willful misstatement, or suppression of facts. Sub-section (1) empowers the proper officer to serve a show cause notice on the person chargeable with tax. Sub-section (5) enables the assessee to deposit tax with interest before issuance of notice. Sub-section (8) provides a thirty-day window post issuance of show cause notice for closure of proceedings on payment of tax and interest without penalty. Sub-section (9) mandates the proper officer to determine the tax, interest, and penalty after considering the representation, if any, made by the person to whom the notice has been issued.

Further, **Section 75(4) of the CGST Act** categorically provides that an opportunity of hearing shall be granted where a request is received in writing from the person chargeable with tax or where any adverse decision is contemplated. Additionally, **Section 75(5)** permits grant of up to three adjournments on sufficient cause being shown and recorded in writing. These statutory safeguards squarely embody the principle of *audi alteram partem* — a cornerstone of natural justice — which mandates that no person shall be condemned unheard.

Granting only a day's time to respond to a show cause notice, particularly when the demand pertains to an entire financial year requiring reconciliation of voluminous data and records, defeats the very purpose of natural justice and renders the consequential order liable to be set aside on the touchstone of procedural fairness.

A2Z Taxcorp LLP

Pari materia rulings:

The position taken by the Hon'ble Karnataka High Court in the present case is fortified by a consistent line of judicial precedent:

- The Hon'ble Allahabad High Court in ***Bharat Mint and Allied Chemicals v. Commissioner Commercial Tax and Others [Writ Tax No. 1029 of 2021 dated March 01, 2022]*** held that even where the assessee has not specifically requested for personal hearing, the proper officer is duty-bound to grant such an opportunity before passing any adverse order, and an order passed without affording such opportunity is in violation of Section 75(4) and liable to be quashed.
- The Hon'ble Madras High Court in ***Tvl. Diamond Shipping Agencies Pvt. Ltd. v. Assistant Commissioner (ST) [W.M.P.(MD).Nos. 6426 and 6427 of 2023]*** and various other similar matters, has repeatedly held that mere uploading of notices on the GST common portal under the "View Additional Notices and Orders" tab, without ensuring effective service, does not constitute valid service within the meaning of Section 169 of the CGST Act, and any ex-parte order passed thereafter is unsustainable.
- The Hon'ble Delhi High Court in ***Mohinder Kumar v. Sales Tax Officer [W.P. (C) 10869/2024 CM APPL. 44744/2024, 30-08-2024]*** and several similar rulings has held that issuance of cryptic and templated show cause notices with truncated timelines, followed by ex-parte orders, vitiates the entire proceedings and warrants remand for fresh adjudication.
- The Hon'ble Calcutta High Court has also taken a similar view in cases where reasonable opportunity to file reply was not afforded, holding that mechanical adjudication culminating in ex-parte orders cannot be countenanced under the GST regime.

Practical takeaway:

A2Z Taxcorp LLP

Taxpayers are well-advised to actively monitor the GST common portal, particularly the “View Additional Notices and Orders” tab, to ensure timely receipt of notices. Where notices are issued with unreasonably short response timelines, taxpayers should immediately submit a written request seeking adjournment under Section 75(5) of the CGST Act, supported by cogent reasons, to safeguard their right of hearing. From the Revenue’s perspective, this ruling once again underscores that procedural fairness is non-negotiable and that meaningful (not illusory) opportunity must be granted before passing any adverse order, failing which the order is liable to be set aside, with the Department bearing the costs of fresh adjudication.

Relevant Provisions:

Section 73 of the CGST Act, 2017 — Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any willful misstatement or suppression of facts.

Section 75(4) of the CGST Act, 2017 — “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) of the CGST Act, 2017 — “The proper officer shall, if sufficient cause is shown by the person chargeable with tax, grant time to the said person and adjourn the hearing for reasons to be recorded in writing: Provided that no such adjournment shall be granted for more than three times to a person during the proceedings.”

[CLICK HERE FOR OFFICIAL JUDGMENT COPY](#)

(Author can be reached at info@a2ztaxcorp.com)

DISCLAIMER: The views expressed are strictly of the author and A2Z Taxcorp LLP. The contents of this article are solely for informational purpose and for the reader’s personal non-commercial use. It does not constitute professional advice or recommendation of firm.

A2Z Taxcorp LLP

Neither the author nor firm and its affiliates accepts any liabilities for any loss or damage of any kind arising out of any information in this article nor for any actions taken in reliance thereon. Further, no portion of our article or newsletter should be used for any purpose(s) unless authorized in writing and we reserve a legal right for any infringement on usage of our article or newsletter without prior permission.

