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Penalty Order Without SCN Violates Natural Justice, Liable to be Quashed

The Hon'ble Punjab & Haryana High Court in the case of *Ankur Kampani vs. Union of India & Ors. [CWP No. 9100 of 2026, order dated April 20, 2026]* held that a penalty order passed without issuance of a prior show cause notice or opportunity of hearing is violative of principles of natural justice and Section 75(4) of the CGST Act, 2017, and is therefore liable to be quashed.

Facts:

Ankur Kampani (**'the Petitioner'**) was subjected to a penalty order whereby an amount of Rs. 4,03,26,803/- was imposed under Sections 122(1)(a) and 122(1)(xvi) of the Central Goods and Services Tax Act, 2017 read with the State GST Act and Section 20 of the IGST Act.

The Union of India and others (**'the Respondent'**) passed the impugned penalty order dated December 15, 2025 against the Petitioner without issuing any prior show cause notice or granting an opportunity of hearing.

The Petitioner contended that the impugned order was passed in complete violation of the principles of natural justice and in contravention of Section 75(4) of the CGST Act, as no notice or hearing was granted prior to imposition of penalty. The Respondent contended that the penalty was validly imposed under the statutory provisions governing GST offences.

Aggrieved by the absence of notice and denial of opportunity of hearing before passing the penalty order, the Petitioner approached the High Court by way of a writ petition challenging the validity of the impugned order.

Issue:

Whether a penalty order passed without issuance of a show cause notice or providing an opportunity of hearing is sustainable in law under the CGST Act, 2017?

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Held:

The Hon'ble Punjab & Haryana High Court in **CWP No. 9100 of 2026** held as under:

- Observed that, it was an admitted position that no show cause notice was issued to the Petitioner prior to passing the impugned order.
- Noted that, absence of notice and opportunity of hearing renders the order violative of the principles of natural justice.
- Observed that, the impugned order is, not only violative of the principles of natural justice but is also in conflict with the provisions of Section 75(4) of the Central Goods and Services Tax Act, 2017.
- Held that, the penalty order cannot be sustained in law and is liable to be quashed, while granting the liberty to, the Respondents to initiate fresh proceedings against the Petitioner in accordance with law.

Our Comments:

The judgment reinforces the mandatory nature of procedural safeguards embedded in Section 75(4) of the CGST Act, 2017, which requires granting an opportunity of hearing where adverse decisions are contemplated. The Court strictly adheres to the doctrine of *audi alteram partem*, treating it as non-negotiable even in tax adjudication.

The Supreme Court in its judgement in the case of **M/S Armour Security (India) Ltd. V. Commissioner, CGST, Delhi East Commissionerate & Anr [2025 INSC 982]** clearly stated that a show cause notice is a document served on a noticee, requiring them to explain why a particular action should not be initiated against them. Under the GST regime, issuance of a show cause notice is a mandatory precondition for raising a demand. It forms the bedrock for proceedings related to the recovery of tax, interest, and penalty. The notice ensures adherence

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to the principles of natural justice by granting the assessee an opportunity to present their case before any adverse action is taken. In essence, it serves as both a procedural safeguard and a legal necessity, marking the commencement of quasi-judicial adjudication under the Act.

Relevant Provisions:

Section 75 of the Central Goods and Services Tax Act, 2017

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

(1) Where the service of notice or issuance of order is stayed by an order of a court or Appellate Tribunal, the period of such stay shall be excluded in computing the period specified in sub-sections (2) and (10) of section 73 or sub-sections (2) and (10) of section 74 2[or sub-sections (2) and (7) of section 74A], as the case may be.

(2) Where any Appellate Authority or Appellate Tribunal or court concludes that the notice issued under sub-section (1) of section 74 is not sustainable for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the proper officer shall determine the tax payable by such person, deeming as if the notice were issued under sub-section (1) of section 73.

(2A) Where any Appellate Authority or Appellate Tribunal or court concludes that the penalty under clause (ii) of sub-section (5) of section 74A is not sustainable for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the penalty shall be payable by such person, under clause (i) of sub-section (5) of section 74A.

(3) Where any order is required to be issued in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court, such order shall be issued within two years from the date of communication of the said direction.

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(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.”

Sections 122 of the CGST Act, 2017

“122. Penalty for certain offences.-

(1) Where a taxable person who-

(xv) suppresses his turnover leading to evasion of tax under this Act;

(xvi) fails to keep, maintain or retain books of account and other documents in accordance with the provisions of this Act or the rules made thereunder;”

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