

Chief Justice's Court

Case :- WRIT TAX No. - 622 of 2025

Petitioner :- Regency Hospital Limited

Respondent :- Union of India and 3 others

Counsel for Petitioner :- Atul Gupta

Counsel for Respondent :- A.S.G.I.,Gaurav Mahajan, Saumitra Singh

Hon'ble Arun Bhansali,Chief Justice

Hon'ble Kshitij Shailendra,J.

1. This petition is directed against order dated 15.01.2025 passed by the Additional Commissioner, CGST, Commissionarate, Kanpur under Section 74 of the C.G.S.T. Act, 2017 ('the Act') whereby demand for the tax period July, 2017 - March, 2018 to April, 2021 - March, 2022 has been created.

2. It is *inter-alia* submitted that show cause notices under Section 74 of the Act were issued to the petitioner for non payment of GST on the sale of medicines to inpatient and packaged treatment. The petitioner filed its reply to the show cause notice on 30.08.2024 and though wanted an opportunity of personal hearing, the portal did not accept such a request. The respondents purportedly issued reminders dated 26.11.2024, 3.12.2024 and 17.12.2024 for personal hearing, however, the said reminders were sent on the e-mail address of the petitioner, which address had been changed under intimation to the respondents and therefore, for lack of notice regarding personal hearing, the petitioner could not appear.

3. Submission has been made that though reply to the show cause notice was filed, in the order impugned dated 15.01.2025 it has been indicated that the petitioner has not submitted its response to the show cause notice issued to it and that despite multiple opportunity of personal hearing, nobody appeared on its behalf and

order impugned has been passed.

4. It has been submitted that non filing of the reply is factually incorrect as is evidenced by the receipt along with the detailed reply filed as Annexure - 6 to the petition, wherein its acknowledged that reply was filed on 30.08.2024 and for lack of notice of personal hearing, which were sent on an abandoned e-mail address, none on behalf of the petitioner could appear.

5. It is further submitted that for non consideration of the reply to the show cause notice, and for non providing of opportunity, the order impugned deserves to be quashed and set aside.

6. Attempt has also been made to argue the issue raised in the petition on merits.

7. Learned counsel for the respondents made submissions that the notices for personal hearing were repeatedly issued and were uploaded at the given e-mail address and despite that the petitioner chose not to appear and therefore, no interference is called for. However, it is not disputed that response to the show cause notice was filed by the petitioner, as per the acknowledgement Annexure-6 (page 262 of the paper book).

8. We have considered the submissions made by counsel for the parties and perused the material available on record.

9. The authority while passing the order impugned dated 15.01.2025 *inter-alia* indicated as under :

"I observe that the Noticee has failed to submit any response to the show cause notice issued to them. Additionally, it is observed that multiple opportunities for personal hearings were provided to the Noticee, specifically on 25.11.2024, 02.12.2024, 11.12.2024, and 24.12.2024. These hearings were scheduled not only to allow the Noticee to present their defense but also to enable them to submit any relevant documents or evidence in support of their claims before the Adjudicating Authority. However, despite of these reasonable and ample opportunities, the Noticee neither appeared in response to the

notices issued to them for personal hearings nor furnished any documentation or records pertaining to the case."

10. It has been indicated that no response to the show cause notice has been submitted and that despite reminders, nobody appeared for personal hearing. A look at Annexure-6 reveals the acknowledgement of having filed the reply on 30.08.2024.

11. Once the reply to the show cause notice was filed, the indication made in the order impugned that no reply has been filed and various pleas, which were taken in reply to the show cause notice have not been considered, clearly shows non application of mind to the record of the case.

12. So far as issuance of notice for personal hearing is concerned, the material placed on record (Annexure - 3 & 4 to the petition) clearly indicates that the details of authorized signatories are different from the e-mail address on which the notices for personal hearing had been sent and therefore, sending of notices on e-mail address, which was abandoned and changed under intimation to the respondents, cannot be used by the respondents to indicate that despite notices for personal hearing, the petitioner did not appear.

13. In view of above fact situation, it apparent that the order impugned dated 15.01.2025 has been passed without considering the response to the show cause notice, which was already on record, and without affording opportunity of personal hearing and as such, the same cannot be sustained.

14. Consequently, the writ petition is **allowed**. The order impugned dated 15.01.2025 and demand raised based on the said order are quashed and set aside. The matter is remanded back to the respondent authority to afford opportunity of personal hearing to the petitioner and pass appropriate order in accordance with law.

15. The petitioner shall appear before the authority along with a copy of this order within one week on which date the authority will fix a date for personal hearing and the matter shall thereafter proceed in accordance with law.

Order Date :- 6.3.2025

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(Kshitij Shailendra, J) (Arun Bhansali, CJ)