

## **GST Judicial Pronouncements on Principles of Natural Justice**

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Judicial pronouncements passed under the Goods and Services Tax Act, 2017-an insight of “Principles of natural justice” and its importance in adjudication proceedings under GST laws:-

- a) **The Hon’ble Jharkhand High Court in the matter of M/s Nkas Services Private Limited, reported in [(2023) 2 Goods and Services Tax Advices 15]**, quashed show cause notice issued u/s. 74 of the GST Act, 2017 on the ground that the show cause notice does not fulfill the ingredients of a proper show cause notice and thus violates principles of natural justice. The Hon’ble Court held that the show-case notice creates a clear impression that it is a notice issued in a format without even striking out any irrelevant portions and without stating the contraventions committed by the petitioner i.e. whether its actuated by reason of fraud or any willful misstatement or suppression of facts in order to evade tax. In absence of clear charges which the person so alleged is required to answer, the noticee is bound to be denied proper opportunity to defend itself. This would entail violation of principles of natural justice. Hence, it is cleared that a SCN has to be specific and not vague so that the taxpayer could appropriately reply it and if he fails to do so then its right to get heard is violated.
- b) **The Hon’ble Calcutta High Court in the matter of Asian Switchgear Private Limited, reported in [(2024) 3 Goods and Services Tax Advices 4]**, emphasized that compliance of principles of natural justice is inherent in any adjudicating proceedings unless specifically ousted by a statute. Requirement of compliance with the principles of natural justice before passing an order of penalty ipso facto means that, the Adjudicating Authority has the jurisdiction to evaluate the merits of the defence taken and speak thereon. The mechanism provided under the GST Act, 2017 allows the Adjudicating Authority to accept the explanation given by a defaulter in given facts and circumstances and not to impose a penalty. The Adjudicating Authority has to consider the mitigating and aggravating circumstances, after affording the defaulter an opportunity of hearing and arrive at the finding whether there was a violation requiring imposition of penalty or not. Thus, the Hon’ble Court held that in case of default penalty cannot be imposed automatically without considering and evaluating the defence of the defaulter for non-compliance of law because it would tantamount to violation of principles of natural justice.
- c) **The Hon’ble Calcutta High Court in the matter of Goutam Bhowmik, reported in [(2024) 3 Goods and Services Tax Advices 91]**, observed “From bare perusal of the show cause notice under Section 73 of the WBGST/CGST Act, 2017, it is evident that no opportunity of hearing was afforded by the proper officer before passing the impugned assessment order for the Financial Year 2018-19 i.e., from April 2018 to March 2019. Although in the show cause notice dated 15.01.2021 under Section 73 of the Act it was specifically mentioned by the proper officer addressing the petitioner that ‘You may appear before the undersigned for personal hearing either in person or through authorized representative for representing your case on the date, time and venue, if mentioned in table below’ but in the table neither date and time nor venue for personal hearing was mentioned.” Hence, it is evident that the proper officer has declined to afford an opportunity of hearing to the petitioner inasmuch as it has not communicated any date, time and venue of hearing. The Proper officer is bound to afford an opportunity of hearing where either a

request in writing is received by him from the person chargeable with tax or penalty, or where any adverse decision is contemplated against such person. To afford opportunity of hearing, is a requirement for providing natural justice and is a statutory mandate which cannot be violated by Proper officer and in the event of violation the order passed by the proper officer cannot be sustained.

- d) **The Hon'ble Gujarat High Court in the matter of Aggarwal Dyeing And Printing Works, reported in [(2024) 3 Goods and Services Tax Advices 131]** emphasized on passing of reasoned order. In this matter, the Hon'ble High Court stated that "it is settled legal position of law that reasons are heart and soul of the order and non communication of same itself amounts to denial of reasonable opportunity of hearing, resulting in miscarriage of justice. The absence of reasons renders an order indefensible/unsustainable particularly when it is subject to appeal/revision." Thus, the position of law that emerges from the decisions mentioned above, is that assignment of reasons is imperative in nature and the speaking order doctrine mandates assigning the reason which is the heart and soul of the decision and said reasons must be the result of independent re-appreciation of evidence adduced and documents produced in the case. The Hon'ble Court further held that the respondent authority has failed to extend sufficient opportunity of hearing before passing impugned order, inspite of specific request for adjournment sought for. Even the impugned order is not only non speaking, but cryptic in nature and the reason of cancellation not decipherable therefrom. Thus, on all counts the respondent authority has failed to adhered to the aforesaid legal position. We therefore, have no hesitation in holding that the basic Principles of natural justice stand violated and the order needs to be quashed as it entails penal and pecuniary consequences.

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