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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-08-2026

CORAM

THE HON'BLE MR.JUSTICE S.RAVEEKUMAR

W.P.No.21007 of 2022
and W.M.P.No.20009 & 20011 of 2022

Tvl. Hanchang India Private Limited,
Represented by its Managing Director
Mr. Yeong Ho Baik,
107 NA, Ottanthangal Village,
Thenneri Post,
Walajabad Union,
Tamil Nadu - 631 604.

..Petitioner(s)

Vs

The State Tax Officer,
Kancheepuram Rural - Zone XII,
Chennai South,
Commercial Taxes Complex,
Kancheepuram.

..Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the impugned proceedings of the Respondent in Form GST DRC - 07 (Summary of the Order) issued in Reference No.ZD330322004826S dated 21.03.2022 for the assessment year 2018-2019 under the CGST Act, 2017 and quash the same as passed contrary to the provisions of the CGST Act and also against the principles of natural justice and further direct the respondent to grant a reasonable

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opportunity as contemplated under the provisions of the CGST Act, 2017 to the petitioner.

For Petitioner(s): Mr.P.Rajkumar

For Respondent(s): Mr.R.Settu Prabakaran
Government Advocate

ORDER

The petitioner has challenged the impugned proceedings in Form GST DRC-07 dated 21.03.2022.

2.The main contention of the petitioner is that the impugned proceedings were passed without issuing a proper show cause notice setting out the reasons as contemplated under Section 74 of the GST Act, and that the impugned proceedings are merely a summary of the order and not a speaking order.

3.Per contra, learned Government Advocate for the respondent has placing reliance on the counter affidavit, submits that a notice in Form GST ASMT -10 was issued earlier and thereafter, a summary of the show cause notice in Form GST DRC-01 was issued by the respondent. The notice in Form GST ASMT - 10 contained the discrepancies and therefore, according to the learned Government Advocate, the same is sufficient to initiate the proceedings. However, the fact that only a summary of the notice has been issued and a

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speaking order has not been passed under Section 74(9) of the CGST Act is not disputed by the respondent.

4.Heard learned counsel for the petitioner and learned Government Advocate for the respondent.

5.The impugned proceedings in Form DRC -01 was issued under Section 74 of the GST Act. As per Section 74, before passing an assessment order, a detailed show cause notice as contemplated under Section 74(1) of the CGST Act is required to be issued.

6.From the records produced before this Court, it is seen that only Form GST DRC-01, which is a summary of show cause notice has been issued. A detailed show cause notice setting out the reasons for the proposed action has not been issued, which is a mandatory requirement under law. The object of issuance of a show cause notice is to put the recipient, on notice, regarding the alleged discrepancies and the action contemplated against him. In absentia, the purpose of a notice becomes meaningless. It would be difficult for the recipient to submit an effective reply. The "due process", as required in law encompasses within it, a grant of proper opportunity before any action, which has drastic civil consequences, as in the present case. It will be useful to refer to the Judgment of the Hon'ble Apex Court in ***ORYX Fisheries Pvt. Limited vs.***

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Union of India, reported in ***(2010) 13 SCC 427*** wherein it was held as under:

"28.It is no doubt true that at the stage of show cause, the person proceeded against must be told the charges against him so that he can take his defence and prove his innocence. It is obvious that at that stage the authority issuing the charge-sheet, cannot, instead of telling him the charges, confront him with definite conclusions of his alleged guilt. If that is done, as has been done in this instant case, the entire proceeding initiated by the show cause notice gets vitiated by unfairness and bias and the subsequent proceeding become an idle ceremony.

29.Justice is rooted in confidence and justice is the goal of a quasi-judicial proceeding also. If the functioning of a quasi-judicial authority has to inspire confidence in the minds of those subjected to its jurisdiction, such authority must act with utmost fairness. Its fairness is obviously to be manifested by the language in which charges are couched and conveyed to the person proceeded against. In the instant case from the underlined portion of the show cause notice it is clear that the third respondent has demonstrated a totally close mind at the state of show cause notice itself. Such a close mind is inconsistent with the scheme of Rule 43 which is set out below. The aforesaid rule has been framed in exercise of the power conferred under Section 33 of The Marine Products Export Development

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Authority Act, 1972 and as such that Rule is statutory in nature.

31.It is of course true that the show cause notice cannot be read hyper-technically and it is well settled that it is to be read reasonably. But one thing is clear that while reading a show-cause notice the person who is subject to it must get an impression that he will get an effective opportunity to rebut the allegations contained in the show cause notice and prove his innocence. If on a reasonable reading of a show-cause notice a person of ordinary prudence gets the feeling that his reply to the show cause notice will be an empty ceremony and he will merely knock his head against the impenetrable wall of prejudged opinion, such a show cause notice does not commence a fair procedure especially when it is issued in a quasi judicial proceeding under a statutory regulation which promises to give the person proceeded against a reasonable opportunity of defence."

6.1.Similarly, the assessment order contemplated under Section 74(9) of the CGST Act must also be a speaking order. However, in the present case, only a summary order has been issued. It is also settled law that reasons are the heartbeat of every order, either Administrative, Quasi-Judicial or Judicial. Unless the order contains the reasons, it will be impossible for the aggrieved party to assail the order before the Higher Forum. In the Judgment reported in ***(2010) 9 SCC 496***, ***M/s.Kranti Asso. Pvt. Ltd. and Another, vs. Masood Ahmed***

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Khan and Others, the Hon'ble Apex Court mandated the necessity of a speaking order in paragraph No.47 of the Judgment which reads as under:

"47. Summarizing the above discussion, this Court holds:

a. In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

b. A quasi-judicial authority must record reasons in support of its conclusions.

c. Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

d. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

e. Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

f. Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

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g. Reasons facilitate the process of judicial review by superior Courts.

h. The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.

i. Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

j. Insistence on reason is a requirement for both judicial accountability and transparency.

k. If a judge or quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

l. Reasons in support of decisions must be cogent,

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clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.

m. It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).

n. Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

o. In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

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6.2.Further, as per Section 75(6) of the CGST Act, 2017, there is a mandate on the adjudicating authority/proper officer to refer to all the facts and the basis of his decisions in his order. However, the said mandate has not been followed. In the present case, admittedly only a summary of the order has been passed. The respondent has not only violated the provisions of the Act but also has completely given a go-by to the principles of natural justice and fairness. Not only is the DRC-01, vague, the DRC-07 is also not accompanied by a speaking order. Therefore, the impugned order assailed herein stands vitiated.

7.In view of the same, the impugned order dated 21.03.2022 is set aside and the matter is remanded to the respondent for fresh consideration. The respondent shall issue a detailed show cause notice in DRC-01 and pass appropriate orders in accordance with law. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

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Index: Yes
Speaking/Non-speaking order
Neutral Citation: Yes/No

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