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By Nidhi, Advocate



Judgment No.: 107
Dt.: 10-04-2024



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Judgment Deals With

Section/Rule	Section 73
Authority	Telangana High Court
Case Name	M/s. Raghava HES Navayauga JV VS Additional Commissioner of Central Tax
Dated	08 th February, 2024

Brief Facts of the Case:

The Order-in-Original dated 28.11.2023 passed by Department has been challenged on the preliminary ground that it violates principles of natural justice. The petitioner was deprived of the right of personal hearing which now has become part and parcel of the procedure to be adopted by the respondents before passing the Order-in-Original. Though the impugned order refers to repeated intimations being sent to the petitioner on 09.08.2023, 31.08.2023 and 15.09.2023 for personal hearing, however, the said notices were not served upon the petitioner. The petitioner learnt that the intimations for the aforementioned three dates of personal hearing sent were at a different email-id which was not the registered email-id of the petitioner. Therefore, the petitioner could not be served with those intimations which prevented him from availing the opportunity of personal hearing awarded by the Department.

Contention of the Department:

The petitioner was granted ample opportunity prior to the passing of Order-in-Original, however, he did not avail the same and therefore, he cannot cry foul for not being given an opportunity of personal hearing.

Findings & Decision of the Court:

Considering the impugned order, what primarily is reflected is that notices for personal hearing were issued to the petitioner on 09.08.2023, 31.08.2023 and 15.09.2023. However, those intimations were sent at e-mail ID which is different from the registered email-id of the petitioner.

From the documents available, the Department does not dispute the fact that the petitioner had already brought the registered email address to the notice of Department. The notice for personal hearing has not been sent at registered email address, but seems to have been inadvertently sent at the email reflected in the portal of the Department.

It appears to be a case where because of technicalities, the notices for personal hearing seem to have not been served upon the petitioner and he has not been provided with a fair opportunity of personal hearing.

Thus, the Order-in-Original dated 28.11.2023 was quashed only on the ground of it being violative of principles of natural justice.

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