



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-3956-2025(O&M)
Date of decision: 27.02.2025

M/s Ess Pee Industries

... Petitioner

Versus

State of Punjab and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Dayyar Singla, Advocate, and
Mr. Rohit Gupta, Advocate,
for the petitioner.

Mr. Saurabh Kapoor, Additional Advocate General, Punjab.

ARUN PALLI, J. (Oral)

Petitioner (M/s Ess Pee Industries) prays for a *Certiorari*, to quash the show cause notice dated May 28, 2024, issued under Section 74 of the *Central Goods and Services Tax Act, 2017*, and *Punjab Goods Services Tax Act, 2017* ('**CGST/PGST Act**'), as also the order dated August 30, 2024, whereby a demand of Rs.43,39,370/- has since been created.

Learned counsel for the petitioner submits that the petitioner was engaged in the trading of iron and steel goods. For the purpose of registration under the **CGST/PGST Act**, it was registered vide GSTIN: 03ARFPK8637D1ZY (**P-1**). However, due to multiple reasons, it became unviable for the petitioner to continue its business. Consequently, an application, dated April 22, 2023, for cancellation of its registration, was submitted on the web portal of the Department. And, the registration was cancelled on April 26, 2023 (**P-3**). However, on May 8, 2024, the petitioner was issued **Form GST DRC-01A**, under Section 73(5) of the **CGST/PGST Act**, by Excise and Taxation Officer-cum-State Tax Officer, Ward No.7, Ludhiana 1 (Punjab). Vide which, the petitioner was informed that, for the tax period April 2019 - March 2020, a liability of Rs.39,91,430/- had been ascertained by the



Department. It is submitted that since the petitioner did not accept the amount of tax/interest calculated by the authorities, it was served with a show cause notice dated May 28, 2024, under Section 74 of the CGST/PGST Act, proposing a demand of Rs.42,36,967/- (P-5). And, with reference thereto, he submits that although under the caption “**Details of personal hearing and due date of file reply**”, the date by which the reply was to be submitted by the petitioner was indicated as June 28, 2024, however, the **date, time, and venue** to grant a personal hearing were left blank (NA). But, the petitioner submitted its response to the show cause notice on June 25, 2024. And, while uploading the same on the web portal, the petitioner specifically requested respondent No.2 to provide a personal hearing before finalizing the demand. It is submitted that the petitioner was all through pursuing its cause diligently, but no hearing update was received on the portal with respect to personal hearing. Rather, vide order dated August 30, 2024, under Section 74 of the CGST/PGST Act, as indicated earlier, a demand of Rs.43,39,370/- has since been finalized.

It is urged that apparently the impugned order dated August 30, 2024, is erroneous and unsustainable, for having been passed in violation of the principles of natural justice. With reference to the provisions of Sections 74 & 75(4) of the CGST/PGST Act, it is submitted that the Adjudicating Authority is under a statutory obligation to provide an opportunity of hearing, when a request is received in writing from the person chargeable with tax or penalty, or when any adverse decision is contemplated against such person. Again, with reference to the reply, dated June 5, 2024, to the show cause notice, he asserts that the petitioner had specifically requested the authorities for a personal hearing before adjudicating the show cause notice. Similarly, he also drew our attention to the screenshot from the portal, evidencing that the authorities were requested to grant a personal hearing to the petitioner. But to no avail.

Served with the advance copy of the petition, Mr. Saurabh Kapoor, learned Additional Advocate General, Punjab, is present in Court on behalf of the respondents.



The factual position, as indicated above, is not disputed by learned Additional Advocate General, Punjab. Rather, he, as always, fairly submits, for the order dated August 30, 2024, has been passed in apparent violation of Section 75(4) of the CGST/PGST Act, the same is indefensible. Accordingly, he submits, for the matter in issue would have to be re-examined by the authorities, the impugned order dated August 30, 2024, be set aside.

In the wake of the position sketched out above, and the statement made by learned Additional Advocate General, Punjab, in particular, we are not required to delve any further into the merits or refer to the provisions of Sections 74 & 75 of the CGST/PGST Act, or even the case law on the subject. Accordingly, the impugned order dated August 30, 2024 (P-8) is set aside, and the matter is remitted to respondent No.2, to pass orders afresh in accordance with law.

The petition is disposed of, in the above terms.

(Arun Palli)
Judge

(Sudeepti Sharma)
Judge

27.02.2025
Ak Sharma/Rajan

Whether speaking / reasoned:
Whether Reportable:

YES/NO
YES/NO