



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 15331 OF 2023

Bhansali Industries]
Final Plot No.106,]
Sub Plot No.39, Ground Floor]
Ramtekdi Industrial Estate,]
Hadapsar Road, Pune – 411013]
Authorized Representative]
Mr. _____	...] Petitioner

Versus

1] Union of India]
Through the Secretary,]
Department of Revenue]
Ministry of Finance,]
North Block, New Delhi-110 001]
]
2] State of Maharashtra]
Through the Secretary]
Ministry of Finance]
Department of Revenue,]
Mantralaya, Mumbai – 400 001]
]
3] Central Board of Indirect]
Taxes & Customs]
Ministry of Finance]
North Block, New Delhi – 110 001]
]
4] Deputy Commissioner of State Tax]
Cabin No.326, 3rd Floor, GST Bhavan]

Airport Road, Yerwada,]
Pune – 411006]
]
5] Commissioner of State Tax]
Pune – 411006]
Proforma Respondent]...Respondents

Mr Bharat Raichandani, a/w Mr. Mahesh Raichandani i/by
UBR Legal for Petitioner.

Ms S D Vyas, Addl. GP a/w Ms. P N Diwan, AGP for
Respondents - State.

CORAM **M.S. Sonak &
Jitendra Jain, JJ.**
DATED: **15 October 2024**

ORAL JUDGMENT (Per M. S. Sonak, J.)

1. Heard learned counsel for the parties.
2. Rule. The Rule is made returnable immediately at the request and with the consent of the learned counsel for the parties.
3. The Petitioner challenges the following:-
 - (i) The adjudication order dated 03 July 2023 made by the Deputy Commissioner of State Tax, Pune (Respondent No.4); and
 - (ii) The order dated 06 July 2022 blocking the Petitioner's credit ledger.
4. The challenge to show cause notice dated 04 August 2022 was correctly not pressed before us. Similarly, Mr.

Raichandani, the learned counsel for the Petitioner, submitted that the challenge to the order dated 06 July 2022 need not be decided because the Petitioner's credit ledger has been unblocked by now. Therefore, the challenge is to the impugned order dated 03 July 2023 made by the Deputy Commissioner of State Tax (Respondent No.4).

5. The record shows that the Petitioner, after receiving the show cause notice dated 04 August 2022, filed a fairly detailed response dated 21 February 2023, which is at Exhibit-F in the paper book of this Petition. The Petitioner claims that no personal hearing was given, though the Respondents dispute this position.

6. Be that as it may, we find that the impugned order dated 03 July 2023 contains no reasons for the conclusions drawn therein. Under the caption "Discussions and Findings", the impugned order lists the following:-

Discussions and Findings:

1. I have carefully gone through the facts available on the records, available on the GSTN Portal.
2. The following issues are required to be decided in the instant case:-

Whether, as per issue communicated from EIU, tax amounting to Rs 11052524.1/- is demandable and recoverable from the tax payer in terms of section 73 of the Goods and services tax Act, 2017.

As regards to demand of interest, I find that the same is demandable and recoverable from the taxpayer as per above discussion.

3. I find that the interest demandable and recoverable from the taxpayer as per above discussion. liability to pay interest is at Rs. 11031820/-,

4. I find that the penalty demandable and recoverable from the taxpayer is at Rs. 1180694/-

5. In view of the above discussions and findings, I pass the following order.”

7. After setting out the brief facts of the case and issues, there is hardly any discussion and in any event, there are no reasons to sustain the findings. As noted earlier, the Petitioner had filed a fairly detailed response to the show cause notice. Most of the contentions raised in the response have not been addressed or considered. Simply stating that the adjudicating officer finds that the demand or interest is recoverable does not amount to giving any reasons. Furnishing reasons is now accepted as one of the essential concomitants of the principles of natural justice and fair play. It is only based on reasons that the Appellate Authority can discern the basis for the decision that may be appealed against. An order bereft of reasons renders the right to appeal, which is a valuable right, nugatory.

8. Reasons are regarded as the live link between the mind of the decision maker and the decision or the conclusion reached. Failure to give reasons amounts to failure of natural justice and even denial of justice. Reasons substitute subjectivity with objectivity. Reasons are indicative of the application of mind. Therefore, an unreasoned order containing only conclusions, mainly when made by a judicial or quasi-judicial authority, is unsustainable. (See *Cyril Lasrado (Dead) by Lrs and Others Vs Juliana Maria Lasrado¹ and Another*, where the Hon’ble Supreme Court referred to

¹ 2004(7) SCC 431

the observations of Lord Denning, M. R. in *Bareen Vs. Amalgamated Engg. Union* (All ER.1154h)

9. The impugned order contains no reasons but only conclusions. To say that "*I find that the tax, interest, or penalty is payable*" is merely an *ipse dixit*. The impugned order neither discusses the Petitioner's response nor gives any independent reasons supporting the conclusion or finding. The impugned order is unreasoned and non-speaking. Such orders cannot be sustained.

10. The impugned order dated 03 July 2023 is set aside on the above short ground. The matter is remanded to the 4th Respondent for fresh adjudication following the law. The 4th Respondent must hear the Petitioner and pass a speaking order within six weeks from today. All contentions on merits are left open.

11. The Rule is made absolute in the above terms without any costs for orders.

12. All concerned must act upon the authenticated copy of this order.

(Jitendra Jain, J)

(M.S. Sonak, J)