Singhvi Trandelink LLP & Anr. v. State of Gujarat & Anr.

Whether an order is sustainable where the documents relied upon during investigation were supplied to the assessee only subsequently and not along with the show cause notice, and where the opportunity to cross-examine witnesses whose statements were relie

Date of Order: March 5, 2026
Case Law No: GIB-AHC-2026-59
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CASE DESCRIPTION / SUMMARY

Background

The petitioners challenged an order passed by the SGST authority. Pursuant to an earlier order dated 24.02.2026, the department filed an affidavit dated 02.03.2026 setting out the relevant details and seeking to explain the issue of non-cross-examination of witnesses. Two procedural grievances were at the core of the matter: the non-supply of relied-upon documents along with the show cause notice, and the refusal to permit cross-examination of witnesses whose statements were relied upon by the department.

Facts

On instructions from the Assistant Commissioner (SGST) present in Court, it was submitted that the explanation in the department's affidavit relating to non-cross-examination of the witnesses did not appear to be in consonance with the settled position of law, and that an appropriate opportunity was required to be extended to the petitioners to cross-examine the relevant witnesses as demanded. As regards the documents mentioned in the affidavit-in-reply, it was conceded that the same were supplied during the course of inquiry and not along with the show cause notice. The Court thus had before it two short grounds: subsequent (rather than contemporaneous) supply of the relied-upon documents, and refusal of cross-examination.

Court Observations (Verbatim)

Para 3: "Under the circumstances, since we find that the documents on which reliance has been placed during the investigation / inquiry were supplied to the petitioners subsequently and not along with the show cause notice, the same would amount to violation of the principles of natural justice.

The second aspect pertains to the refusal to extend the opportunity of cross-examination, as demanded by the petitioners, of those witnesses whose statements have been relied upon by the department. Such inaction also violates the fundamental principle of fair opportunity of hearing."

Para 4: "Thus, only on these two short grounds, the impugned order deserves to be quashed and set aside. The matter is remanded to the respondent authority for a fresh inquiry / investigation from the stage of issuance of the show cause notice."

Para 5: "We direct that all the documents on which reliance is placed by the respondents shall be supplied to the petitioner along with the list of Relied Upon Documents (RUDs). In the event, the petitioner requests cross-examination of any witnesses whose statements are relied upon by the department, such opportunity shall be extended and appropriate orders shall be passed in accordance with law. The inquiry shall be completed within a period of three months."

Para 7: "It is clarified that we are not setting aside the show cause notice and the inquiry shall proceed thereafter, after the RUDs are supplied to the petitioners."

Verdict

The impugned order was quashed and set aside on the two grounds of non-supply of relied-upon documents with the show cause notice and refusal of cross-examination, both being violations of natural justice. The matter was remanded for fresh inquiry from the stage of the show cause notice, with a direction to supply all RUDs and extend cross-examination if requested; the show cause notice itself was not set aside, and the inquiry is to be completed within three months.

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