



IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP no. 5562 of 2023

Decided on: 26th June, 2024

M/s Microtek Himachal Power Products Private Limited

....Petitioner.

Versus

State of Himachal Pradesh and others

...Respondents.

Coram

Hon'ble Mr. Justice M.S. Ramachandra Rao, Chief Justice

Hon'ble Mr. Justice Satyen Vaidya, Judge

*Whether approved for reporting?*¹

For the petitioner:

Mr. Amar Pratap Singh and Mr. Goverdhan Lal Sharma, Advocates.

For the respondents:

Mr. Anup Rattan, Advocate General with Mr. Rakesh Dhaulta, Mr. Pranay Pratap Singh, Mr. Gobind Korla, Mr. Sushant Kaprete, Additional Advocate Generals and Mr. Arsh Rattan, Ms. Priyanka Chauhan & Mr. Sidharth Jalta, Deputy Advocate General, for respondents-State.

M.S. Ramachandra Rao, Chief Justice (oral)

In this Writ petition, the petitioner assails order dt.20.06.2023, Order in FORM GST DRC-01 passed by the second respondent purportedly u/s 74(9) of the HPGST/CGST Act, 2017.

2) Though the said order states on page 1 that it is in fact

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

“summary of a Show Cause Notice”, on page 4 thereof, in para D, there is a table indicating the tax liability, which appears to have been already determined by the second respondent, and there is also a direction in the said para to the petitioner to pay the said tax liability. No doubt, this is followed by a sentence on the same page that reply or objections, if any, be submitted on or before 19.07.2023, failing which demand will be finalized.

3) The petitioner has therefore approached this Court contending that there is no prior show cause notice as mandated in Section 74(1) of the HPGST Act and that the impugned order is in violation of principle of natural justice.

4) Learned Advocate General contends that the second respondent actually intended to issue only a Show Cause Notice, but erroneously mentioned in *para D* as if there is a determination of the tax liability alongwith penalty and interest. He contended that the impugned order dt.20.06.2023 be treated as a Show Cause Notice and opportunity to file reply be given to the petitioner, and that thereafter the second respondent will pass a reasoned order in accordance with law and communicate it to the petitioner.

5) Accordingly, in view of the submissions of learned Advocate General, the impugned order dt.20.06.2023 is set aside; the same is

directed to be treated as a Show Cause Notice issued to the petitioner; the petitioner is granted four weeks' time to reply to the same; on the receipt of the reply of the petitioner, a personal hearing be offered by the 2nd respondent and then reasoned order be passed in accordance with law and communicated to the petitioner.

6) The Writ petition is disposed of alongwith pending applications, if any.

7) No costs.

(M.S. Ramachandra Rao)
Chief Justice

26th June, 2024
(priti)

(Satyen Vaidya)
Judge

High Court of Karnataka