

# TAX INFO

*Dated 01/07/2022*

Latest update on GST Law: **Order passed without giving an opportunity of hearing is void** as given by **Gujarat High Court**.

We expressly disclaim liability to any person in respect of anything done in reliance of the contents of this publication

<b>Name of Petitioner</b>	M/s. MBR Flexibles Ltd.
<b>Name of Respondent</b>	The Deputy Commissioner of State Tax
<b>Court</b>	Gujarat High Court
<b>Date of Judgement</b>	08/06/2022
<b>Appeal No.</b>	R/Special Civil Application No. 5938 Of 2022

## **Brief Facts of the Case Law:**

The petitioner is a private limited company engaged in the business of Flexible Packaging materials. The petitioner received Notice under section 129(3) of the CGST Act,2017 dated 06/01/2022, calling upon the petitioner why penalty could not be levied as referred in the said Notice and asked him to appear before the authority on 13/01/2022. But on the same day an order dated 06/01/2022 was passed by the authority. The petitioner received an order dated 06/01/2022 i.e. on the date when the Notice was issued. Without giving an opportunity of hearing, the authority passed the order on the same day when the Notice was issued.

## **Contention of the Petitioner:**

The Department has passed the order without giving an opportunity of hearing to the petitioner. It is amply clear from the Notice as well as impugned order that the authority has passed the order on the date of issuance of the Notice itself. The petitioner was not heard before passing the order and therefore, it is a case of breach of principles of natural justice, having not offered an opportunity of hearing before the authority.

## **Decision of the Court:**

After due perusal of the Notice as well as order impugned in the petition, it is clear from the record that Notice as well as order impugned was passed on the same date i.e., 06/01/2022. An opportunity of hearing has not been afforded to the petitioner and therefore, it is in breach of principles of natural justice.

Therefore, the impugned order dated 06/01/2022 was quashed and set aside. The Court directed the petitioner shall appear before the authority within a period of three weeks from the date of receipt of this order. Thereafter, the authority shall pass order afresh in accordance with law and after examining the material, which may be placed by the petitioner.

**Suresh Aggarwal, Advocate**

**Compliance & Litigation under GST**

**Address: House No. 54, Pocket A-3, Sector-5, Rohini- 110085**

**Phone: 91-9810032846; 011 - 45131427**

**Email: sureshagg@gmail.com**

**Website: <http://www.sureshtaxation.com>**