

[GST Department to pay Rs.25,000 penalty to taxpayer for not providing personal hearing before raising ITC mismatch demand: High Court](#)

The **Judgment** was delivered by the High Court. The primary issue in this writ petition revolved around the rejection of the petitioner's claim for Input Tax Credit (ITC) due to discrepancies between GSTR-3B and the auto-populated GSTR-2A, without proper hearing or consideration of the petitioner's supporting documents.

Summary of the Case:

1. Background:

The petitioner was contesting an order dated December 15, 2020, by the 2nd Respondent that he had claimed excess ITC in GSTR-3B than was available according to GSTR-2A for the financial year 2018-19.

An appeal against this order was rejected on February 28, 2022, by the Joint Commissioner of State Tax (Appeal), on the grounds of lacking **valid/lawful document or submission**.

2. Petitioner's Arguments:

The petitioner argued that the 2nd Respondent's order was issued without prior notice or information, unjustly demanding payment and imposing penalties. It was contended that ITC denial solely based on GSTR discrepancies is unlawful if there is genuine evidence of transaction history present, which the petitioner claimed to have. Furthermore, they argued that no hearing was granted by the Appellate Authority, and the order was passed without further documentation requests despite claims of having uploaded necessary documents.

3. Respondents' Défense:

The respondents stood by their order, citing mismatches between GSTR-2A and GSTR-3B. They stated that the petitioner did not respond to notices such as ASMT-10 and DRC-01A, justifying their original order.

4. Rejoinder by Petitioner:

The petitioner refuted by emphasizing that supporting documents were indeed uploaded and reiterated that no hearing was realistically provided.

5. Court's Consideration:

The Court noted that documentation was uploaded in compliance, contradicting the claim of non-receipt by the respondents. Key provisions like Section 107(8) and 107(12) of the CGST Act mandate offering an opportunity for a hearing and requiring a reasoned written order, neither of which the Appellate Authority fulfilled. The order dated February 28, 2022, lacked the necessary procedural compliance, prompting critique from the Court.

6. Judgement:

The High Court set aside both the order by the Appellate Authority and the Primary Authority due to gross procedural violations. It instructed the Primary Authority to issue a notice for a proper hearing, consider all relevant documentation such as ASMT-11 filings, and to pass a new, reasoned order lawfully. The petitioner was also permitted to present additional documents and case law support.

7. Cost Order:

The respondents were directed to pay costs amounting to **Rs.25,000** to the petitioner within four weeks for failing to appropriately administer the procedural dimensions of the Act.