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By Nidhi, Advocate



Judgment No.: 031
Dt.: 21-12-2023



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Judgment Deals With

Section/Rule	Section 73
Authority	Kerala High Court
Case Name	M/s. N.T.K. Jewellers VS The Assistant Commissioner
Dated	04 th December, 2023

Brief Facts:

The petitioner has been assessed for tax liability of Rs.6,36,995/-. The assessment order would itself disclose that the petitioner was issued the show-cause notice, to which the petitioner had not filed reply. Pointing out the discrepancies in the return, the petitioner had been issued notice dated 30.07.2020. The petitioner filed reply to the said notice in GST ASMT-10. After considering the reply, the notice under Section 73(1) of the KGST Act, 2017 has been issued to the petitioner. However, no reply was filed to the said notice in DRC-01. The Assessing Authority in the impugned order itself has mentioned that after intimation in DRC-01, which was served on the petitioner, the petitioner failed to file reply, and therefore, whatever material was available, including the reply filed to the notice in GST ASMT-10, the petitioner has been assessed for the tax.

Contention of Petitioners:

The ground for approaching the Court is violation of the principles of natural justice.

Contention of Department:

Instead of filing statutory appeal against the said order, the petitioner has approached the Court.

Findings & Order:

The Court has no reason to believe that the authority would record an incorrect finding of fact regarding service of notice to the petitioner in the impugned order. If the petitioner is aggrieved by the order passed, he ought to have filed an appeal instead of approaching the Court on the ground of violation of principles of natural justice.

Thus, the present writ petition was disposed of, with liberty to the petitioner to file the appeal against the said order vide Circular No.53/2023, the limitation for filing the appeal has been extended till 31.01.2024.

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