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By Nidhi, Advocate



Judgment No.: 041
Dt.: 03-01-2024



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Judgment Deals With

Section/Rule	Section 73
Authority	Kerala High Court
Case Name	Vadakkoot Chackoo Devassy VS Assistant State Tax Officer
Dated	21 st December, 2023

Brief Facts:

Form GST ASMT-10 under Rule 99(1) of the CGST Rules, 2017 was issued to the petitioner on 29.9.2023 and on the very next day, a show cause notice under Section 73 of the CGST Act, 2017 came to be issued.

Contention of the Petitioner:

No official copy of the notice either in GST ASMT-10 or the show cause notice dated 30.9.2023 under Section 73 was issued to the petitioner physically and the same were uploaded in the GST portal.

Since the petitioner's registration had been cancelled before issuance of the said notices, the petitioner did not file reply to the said show cause notices. Even otherwise, the petitioner was not granted any time in the notice so issued in GST ASMT-10 and therefore, there has been violation of the principles of natural justice in passing the assessment order.

Findings & Decision of the Court:

The petitioner was not afforded any time for filing reply to the notice in GST ASMT-10. It is also not in dispute that the petitioner's GST registration was cancelled before the said notices were uploaded in the GST portal. Therefore, there has been violation of the principles of natural justice and, thus, the impugned assessment order, was unsustainable and the same was set aside. The matter was remanded back to the file of the assessing authority to pass fresh a order. The petitioner was permitted to file reply to the show notice dated 30.9.2023. If the petitioner files reply, he shall be afforded an opportunity before passing the fresh assessment order. The petitioner assessee will not take any ground regarding the limitation in finalising the assessment for the assessment year 2017-18.

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