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By Nidhi, Advocate



Judgment No.: 050
Dt.: 16-01-2024



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Judgment Deals With

Section/Rule	Section 73
Authority	Madras High Court
Case Name	Brakes India Private Limited VS Assistant Commissioner (ST)
Dated	03 rd January, 2024

Brief Facts:

The Department initially issued a notice dated 14.02.2023 proposing to block the petitioner's Input Tax Credit (ITC) under Rule 86-A of TNGST/CGST Rules, 2017 in respect of purchases made from M/s. Quality Traders on the ground that they are not in existence & are bill traders. A reply was issued to such notice on the same date. Thereafter, the Department issued show cause notice dated 09.10.2023. The said SCN was served on the petitioner by e-mail on 25.10.2023. The SCN fixed the personal hearing on the same date at 02.00 pm, i.e. within 2 hours from the time of receipt of e-mail. Thereafter, the order dated 30.10.2023 was passed in respect of assessment year 2018-19. The present writ petition was filed in the said facts and circumstances.

Contention of the Petitioner:

A reasonable opportunity was not provided to the petitioner to submit relevant documents and, more importantly, explain the facts and circumstances. As a consequence of the impugned order, the petitioner has been directed to reverse ITC of a substantial value. Such action has been taken pursuant to a show cause notice dated 09.10.2023, which was received on the date of hearing.

Findings & Decision of the Court:

The facts reveal that a reasonable opportunity was not provided to the petitioner to submit necessary documents and provide an explanation to the Department. On this ground, the impugned order calls for quashing. The impugned order dated 30.10.2023 was quashed and the matter was remanded back for re-consideration. The Department was directed to provide a reasonable opportunity to the petitioner, including a personal hearing, and dispose of the matter by a reasoned order.

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